

Atlantic Corporate Center
2317 Route 34, Suite 2B
Manasquan, NJ 08726
732-201-4133
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National Council of Insurance Legislators (NCOIL)

Resolution Supporting Independent Contractor Status for Insurance Agents and Other Licensed Financial Professions

**Sponsored by Asm. Ken Cooley (CA) – NCOIL President*

**To be introduced and discussed during the Joint State-Federal Relations & International Insurance Issues Committee on March 4, 2022.*

WHEREAS, there are over one million licensed insurance agents, financial advisors, and other financial professionals who operate as independent contractors in the United States, and

WHEREAS, these licensed, independent insurance agents and other financial professionals are often small business owners who have operated their own businesses for decades and have substantial relations with one or more insurance companies, broker-dealers, or registered investment advisors, and

WHEREAS, these independently contracted, licensed insurance agents and other financial professionals operate in highly regulated environments and provide vital financial services to consumers, and

WHEREAS the presence of an independent distribution model in the insurance and financial services industries benefits consumers by providing more choice, products, and services, and

WHEREAS, workers in insurance and other financial professions, unlike workers in other industries, have the choice to work as employees or as independent contractors, and

WHEREAS, many choose to be independent as it allows producers and other professionals the freedom to select the communities in which they will work, the products they will offer, and the kind of business they will build, and

WHEREAS, surveys, including research by the National Association of Insurance and Financial Advisors (NAIFA), show licensed independent agents and other financial services professionals are overwhelmingly satisfied with their status as independent

contractors and oppose policies that would take away their choice to work independently, and

WHEREAS, the future of independent work has been the subject of extended discussion nationwide as the Department of Labor (DOL) and other federal agencies, the United States Congress, and states legislatures have debated the topic of worker classification, and

WHEREAS, these debates are often centered on extending benefits and protections to workers in the so-called "gig economy" but resulting policies will have far-reaching consequences including in insurance and financial services, if not appropriately focused, and

WHEREAS, one policy under discussion in these debates is the use of a "ABC worker classification test" for determining whether a worker is an independent contractor or employee, and

WHEREAS, the "strict worker classification ABC test" is generally understood to be a classification test in which a worker is deemed to be an employee unless: 1) the worker is free from the employer's control or direction in performing the work; 2) the work takes place outside the usual course of the business of the company and off the site of the business; and 3) the worker is customarily engaged in an independent trade, occupation, profession, or business;

WHEREAS, a strict ABC test, or other similarly worker classification laws, applied to licensed professionals in the insurance and financial services industries would be extremely disruptive as it could require licensed independent producers and other financial services professionals to be classified as employees of the companies whose products they sell, and

WHEREAS, reclassifying licensed, independent producers and other financial professionals to employees would disrupt nearly one million licensed professionals, thousands of Main Street businesses that are operated by licensed financial professionals across the United States, and

WHEREAS, reclassifying licensed, independent producers and other financial professionals to employees would disrupt established and well-functioning insurance distribution channels, and

WHEREAS, reclassifying independent, licensed financial professionals to employees would limit consumers' choices and access to products and advice, and

WHEREAS, multiple states have recognized the unique environment in which licensed insurance agents and other financial services professionals operate, as well as the disruption the ABC test or other similarly worker classification laws, would cause in insurance and financial services, and

WHEREAS, multiple states have seen it appropriate to exempt licensed insurance agents and other financial professionals from recent worker classification laws enacted in that state,

NOW, THEREFORE BE IT RESOLVED that NCOIL supports the continued presence of licensed, independent contractors in insurance and other regulated financial professions, and

BE IT ALSO RESOLVED that NCOIL will encourage states and federal entities that are debating worker classification policies and that are considering adopting a strict ABC test and or other similarly worker classification laws to continue issuing exemptions for, or exempting out, licensed insurance agents and other financial professionals, and

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to state legislative leaders, governors, the Department of Labor and other federal agencies, and the Senate and House Labor Committees of the United States Congress.