



John P. Gerni
Regional Vice President, State Relations

August 21, 2009

Mr. Jordan Estey
Director of Legislative Affairs and Education
National Conference of Insurance Legislators
385 Jordan Road
Troy, NY 12180

Dear Mr. Estey:

These comments on the proposed Workers' Compensation Coverage and Employee Misclassification Model Act are submitted on behalf of the American Council of Life Insurers. ACLI is a national trade association whose 353 member companies account for 93 percent of total assets, 94 percent of the life insurance premiums, and 94 percent of annuity considerations in the United States.

As noted in the public hearing at the Summer Meeting, our concern with the proposal is the possible unintended consequence that the proposed model could apply to licensed insurance producers who are also independent contractors. Such producers are already subject to provide workers compensation coverage to their employees within their own business.

It is our understanding that the purpose of the proposed model act is for workers' compensation coverage to be applied to independent contractors in the construction industry. This is identified in the definition of "employee" under Section 2(E)(2)(b) where it states as an exception to the definition, *an independent contractor as defined in Section 2(G) who is not engaged in the construction industry*. Given that the exceptions are clarified further in Section 2(E)(2)(a) where *any state-specific job exemptions* are noted. The drafting note under this subsection identifies several types of jobs under this exemption but does not specifically identify a licensed insurance producer. We would simply request that you include "insurance producer" in the drafting note as well. This technical, friendly amendment would clarify our concern of the unintended consequence.

Thank you for the opportunity to comment on the proposal. I would be happy to discuss this further during the meeting on August 28.

Sincerely,

John P. Gerni