

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
TASK FORCE ON TERRORISM/SUBCOMMITTEE ON
NATURAL DISASTER INSURANCE LEGISLATION
SAN DIEGO, CALIFORNIA
NOVEMBER 18, 2005
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) Task Force on Terrorism and Subcommittee on Natural Disaster Insurance Legislation met at the Hilton San Diego Resort in San Diego, California, on Friday, November 18, 2005, at 1:45 p.m.

Assem. Ivan Lafayette of New York, chair of the Task Force, and Sen. Steven Geller of Florida, chair of the Subcommittee, presided.

Other members present were:

Rep. Donald Brown, FL
Assem. Nancy Calhoun, NY
Sen. William J. Larkin, Jr., NY
Rep. George Keiser, ND
Rep. Gene Seaman, TX

Other legislators present were:

Rep. Ted Carpenter, AZ	Rep. David Palsrock, MI
Rep. Pat Patterson, FL	Rep. Wayne Stahl, MT
Rep. Robert Herkes, HA	Sen. Pamela Redfield, NE
Sen. William Haine, IL	Sen. James Seward, NY
Rep. Terry Parke, IL	Sen. Harvey Tallackson, ND
Sen. Ruth Teichman, KS	Rep. Frank Wald, ND
Rep. Dennis Horlander, KY	Sen. David Bates, RI
Rep. Dennis Keene, KY	Sen. William Walaska, RI
Rep. Ron Peterson, OK	Rep. Craig Eiland, TX
Sen. Delores Kelley, MD	Rep. Todd Kiser, UT
Rep. Barbara Farrah, MI	Rep. Virginia Milkey, VT
Rep. David Law, MI	Del. Harvey Morgan, VA

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, NCOIL Director of Legislative Affairs & Education, Property-Casualty Insurance
Paul Donohue, NCOIL Director of State-Federal Relations

MINUTES

The Task Force voted unanimously to approve the minutes of its July 7, 2005, meeting in Newport, Rhode Island.

The Subcommittee voted unanimously to approve the minutes of its July 7, 2005, meeting in Newport, Rhode Island.

TRIA REAUTHORIZATION

Mr. Donohue reported that the Senate recently passed a Terrorism Risk Insurance Act (TRIA) reauthorization bill, S. 467, and that the House Financial Services Committee adopted its own version, which was awaiting a vote by the full House. He said the House legislation, H.R. 4314, differed from the Senate in several important ways. Among other things, he said, the House bill would include group life insurance (a move supported both by NCOIL and the NAIC), and would establish separate retention levels for various lines of insurance, known as the “silo” approach. He said the Administration strongly opposed expanding TRIA in any way and did not support the House bill.

Mr. Donohue explained that both the House and Senate versions would raise the trigger level from the current \$5 million to \$50 million in 2006 and \$100 million in 2007. He said the retention level in the Senate bill would be an across-the-board 17.5 percent for 2006 and 20 percent for 2007. The Senate also, he said, would cut certain lines of coverage from the program, including, among others, commercial auto and professional liability, and would terminate TRIA at the end of 2007. Mr. Donohue reported that the House legislation would provide a three-year extension, but that the extension would drop to two years if the private industry failed to make progress on a long-term solution.

Mr. Donohue overviewed several proposed options for such a solution, including, in part, a mutual reinsurance facility developed with government funding; post-event funding using revenue bonds and policyholder assessments; a pay-to-play pooling reinsurance mechanism; and a voluntary public-private partnership similar to Great Britain’s Pool Re. He noted that House Financial Services Committee staff has said there is no support for combining natural disaster and terrorism risks.

Assem. Lafayette overviewed his concerns regarding terrorism insurance and federal activity, including the notion that the country’s current national catastrophe program involves the President circling a disaster scene in Air Force One and dropping federal money onto an affected area. He commented that, though colorful, the description was not far from the truth.

Interested parties discussed their views on the issue. Among other things, participants overviewed the financial impact should terrorism coverage not be available and reported recent estimates of insured losses emanating from a biological or radiological terrorist event ranged from \$200 to \$700 billion.

Julie Gackenbach of the Property-Casualty Insurance Association of America (PCI) said that, in response to requests from the House Financial Services Committee, PCI had begun work on a long-term TRIA alternative. She said PCI believed the terrorism market must increase capacity (rather than just reallocate risk) and that insurers must be given “market freedoms” in order to do so. She said PCI proposed extending the backstop program for 12 years. The first two

years would be a continuation of the current system, she said, and the remainder would be a gradual reduction of the federal role through creation of a private-market reinsurance mechanism that could issue pre- and post-event bonding. Ms. Gackenbach commented that many of PCI's proposals appear in the House reauthorization bill.

Legislators and interested parties discussed future federal action, including the likelihood of a conference committee to resolve differences between the Senate and House bills. Among other things, they noted time constraints in light of Congress' planned December 17 recess.

REGULATOR MEGA-CATASTROPHE SYMPOSIUM

Sen. Geller recognized the importance of federal action to establish a national mega-catastrophe program. He reported that he and Rep. Eiland had participated in a regulator natural catastrophe summit in San Francisco earlier in the week.

Sen. Geller said that summit attendees acknowledged the following, among other items: there are certain risks the private insurance and reinsurance markets simply cannot cover; the consequences of such a failure in the insurance industry would have devastating impacts on other industries across the country, including, among others, the mortgage market; when thinking of a national program, insured losses must be separated out from uninsured; and predictability is critical for insurers in order to make coverage more available and affordable.

Rep. Eiland added that legislators and others should realize that living in catastrophe-prone areas, such as coastlines, often is necessary. He said people must be available to load and unload ships that come into port and to man oil rigs. He reported that insurers participating in the summit were opposed to combining natural disaster and terrorist risks.

Sen. Geller said summit attendees had discussed a layered program, in which consumers and the private industry, state/regional catastrophe funds, and the federal government shared natural disaster risk.

Sen. Geller thanked regulators for their graciousness to NCOIL during the summit. He expressed interest in working with the National Association of Insurance Commissioners (NAIC) in order to promote swift enactment of a national catastrophe program.

Dr. Robert Litan of the Kauffman Foundation commented, in part, that there seemed to be "an undue amount of pessimism" at the regulator conference regarding the federal government's ability to set premiums in advance of a disaster. He said that without an advance-premium provision, the federal government would be forced to recoup its insured expenditures following a disaster, and it would never be able to recoup all that it would have spent.

Rep. Herkes overviewed the unique catastrophe challenges faced by Hawaii. He said the state had two catastrophe funds: one for hurricanes and the other for high-risk lava zones. Rep. Herkes said he hoped for one all-encompassing fund, and he noted that proper land-use also is an issue.

Tammy Velasquez of the American Insurance Association (AIA) said, among other things, that AIA believed capacity was not a problem and that, rather than develop a national program, state and federal governments should focus on encouraging mitigation and improving modeling and regulatory reform.

Frank Nutter of the Reinsurance Association of America (RAA) was opposed to creation of additional state catastrophe funds, saying, among other things, that they compete with the private reinsurance market and that capacity is sufficient to cover disaster risks.

Ray Spudeck of the Florida Division of Insurance said, in part, that the national catastrophe policy currently in place results in a greater federal deficit. He called on the insurance industry to offer its leadership to raise interest in retrofitting and other mitigation activities. He commented that by putting initial responsibility for insured losses on the private and state/regional fund markets, a layered program would actually remove the federal government from its current level of catastrophe spending.

FUTURE NCOIL ACTION

Sen. Geller said that at the February Spring Meeting NCOIL would consider amending its 2004 *Resolution Regarding Natural Disaster Insurance Issues* in order to specify interest in a layered national catastrophe program. He said NCOIL and NAIC should combine their “considerable political strength” to achieve enactment of a national system. He reported that the NCOIL resolution currently supports consideration of several options, including, among others, merging natural disaster and terrorism risks into one plan and folding natural catastrophe exposure into the National Flood Insurance Program (NFIP).

Legislators and interested parties then further discussed industry support for and concerns with a national catastrophe system.

ADJOURNMENT

There being no further business, the meeting adjourned at 3:15 p.m.