

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
TASK FORCE ON TERRORISM
BOSTON, MASSACHUSETTS
JULY 20, 2006
MINUTES

The National Conference of Insurance Legislators (NCOIL) Task Force on Terrorism met at the Boston Park Plaza Hotel and Towers in Boston, Massachusetts, on Thursday, July 20, 2006, at 11:30 a.m.

Assem. Ivan Lafayette of New York, chair of the Committee, presided.

Other members of the Committee present were:

- Sen. Joseph Crisco, CT
- Sen. Steve Geller, FL
- Rep. Terry Parke, IL
- Sen. Neil Breslin, NY
- Assem. Nancy Calhoun, NY
- Sen. William J. Larkin, Jr., NY
- Rep. George Keiser, ND

Other legislators present were:

- Rep. Richard Laird, AL
- Rep. Sandra Adams, FL
- Rep. Franklin Sands, FL
- Rep. Priscilla Taylor, FL

Also present were:

- Susan Nolan, Nolan Associates, NCOIL Executive Director
- Candace Thorson, NCOIL Deputy Executive Director
- Paul Donohue, NCOIL Director of State-Federal Affairs

MINUTES

The Committee voted unanimously to approve the minutes of its February 27, 2006, meeting in Weston, Florida.

TERRORISM RISK INSURANCE ACT (TRIA) OF 2002 REAUTHORIZATION

Assem. Lafayette commented that the House and Senate may have weakened TRIA with the passage of the *Terrorism Risk Insurance Extension Act of 2005* (TRIEA). He stated that there appears to be little understanding in Washington, DC regarding the appropriate role of the federal government. He said NCOIL is reviewing the experiences of other countries, including the role of the private sector. Assem. Lafayette said he hopes to have more information by the next meeting.

Mr. Donohue reported that there has been no action in Congress on TRIA or TRIEA since the last meeting. Mr. Donohue stated that the current policies that include terrorism coverage will expire on December 31, 2007, if TRIA is not renewed again or if a new program is enacted. Mr. Donohue also stated that currently there is reinsurance in the amount of \$6 to \$8 billion worldwide because of TRIEA.

LONG-TERM SOLUTIONS TO TERRORISM INSURANCE

Mr. Donohue reported that the National Association of Insurance Commissioners (NAIC) had a hearing in New York City on March 29, 2006. At that meeting, he said, 21 speakers representing insurance companies, insurance trade groups, real estate companies, and actuaries testified in preparation for several meetings the NAIC will have throughout the summer with the President's Working Group on Financial Markets. He said the NAIC had asked for comments on the long-term availability and affordability of terrorism risk insurance and on ideas for long-term solutions. Mr. Donohue said that under TRIEA, the Working Group on Financial Markets is required to meet with the interested parties, including the NAIC, in order to prepare a report to the President, due on September 30, 2006.

Michael McCarter, Chair of an American Academy of Actuaries (AAA) risk subgroup, reported that the Working Group was interested in a number of issues, including the possible inclusion of group life insurance and the need to address chemical, nuclear, biological, and radiological (CNBR) weapons of mass destruction (WMD). Mr. McCarter stated that group life insurers are in a similar situation to the workers' compensation insurers in terms of their inability to control terrorism claims.

Mr. McCarter reported that at the NAIC hearing, AAA provided more detail on the estimate of potential insurance losses due to terrorism. According to Mr. McCarter, terrorists with access to WMDs could cause insured losses of more than \$700 billion, much of that in workers' compensation, where terrorism coverage is mandatory. Mr. McCarter stated that a loss of this magnitude would be devastating to the solvency of many insurers if there is no national framework for terrorism, such as TRIEA.

On another note, Mr. McCarter said that the new Secretary of the Treasury, Henry Paulson, had changed his mind as to whether the market could handle terrorism on its own. As CEO of Goldman Sachs, Mr. McCarter said, Secretary Paulson sent a letter last year to the Administration stating there was a need for federal involvement. Now, Mr. McCarter said, as Secretary and Chair of the President's Working Group on Financial Markets, Secretary Paulson has indicated that the situation has changed since he wrote the letter and that it is not as clear that something needs to be done.

Assem. Lafayette commented that twice the federal government has approved a terrorism backstop and twice it did not appreciate the likely extent of damages from a catastrophic attack. Mr. McCarter responded by saying that our ability to estimate these damages has improved substantially. He stated that there is a \$100 billion cap in TRIEA but that losses could be much worse than \$100 billion.

Wayne McOwen of the Workers Compensation Terrorism Coalition stated that exposure to terrorism threatens to put the safety and soundness of workers' compensation insurance at risk. He said we need only look at the work of modeling companies to quantify that threat. According to Mr. McOwen, some scenarios estimate workers' compensation losses to the extent of \$90 billion. Mr. McOwen stated that the \$90 billion scenario is three times the total capacity of the workers' compensation segment of the market. He stated that while there is a finite amount of capital, there isn't an infinite exposure to risk. According to Mr. McOwen, this circumstance is all the more problematic for workers' compensation because it is required by law to be purchased, the medical and rehabilitative services and wage loss benefits are fixed by state statute, and the benefits are potentially unlimited.

According to Mr. McOwen, the objectives of the Workers Compensation Terrorism Coalition include providing information and vetting alternative solutions that ultimately will maintain the viability of workers' compensation carriers, and the availability of coverage. Mr. McOwen stated that finding solutions is challenging because the industry is very diverse.

Mr. McOwen said that his group is looking at long-term solutions, including, the possibility of risk sharing among several companies, a continuation of TRIEA, and federal legislation that would pre-empt state statutes that mandate workers' compensation coverage for terrorism. Mr. McOwen invited NCOIL to work with his group on the issue.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:00 p.m.