

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS  
PROPERTY-CASUALTY INSURANCE COMMITTEE  
NASHVILLE, TENNESSEE  
NOVEMBER 22, 2013  
MINUTES

The National Conference of Insurance Legislators (NCOIL) Property-Casualty Insurance Committee met at the Hilton Nashville Downtown in Nashville, Tennessee, on Friday, November 22, 2013, at 4:45 p.m.

Rep. Matt Lehman of Indiana, chair of the Committee, presided.

Other members of the Committee present were:

Rep. Lindsey Holmes, AK	Sen. Carroll Leavell, NM
Rep. Greg Wren, AL	Assem. Will Barclay, NY
Sen. Jason Rapert, AR	Sen. Neil Breslin, NY
Sen. Travis Holdman, IN	Assem. Kevin Cahill, NY
Rep. Ron Crimm, KY	Sen. William J. Larkin, Jr., NY
Rep. Robert Damron, KY	Sen. James Seward, NY
Rep. Steve Riggs, KY	Rep. Mike Henne, OH
Rep. Bart Rowland, KY	Rep. Michael Stinziano, OH
Rep. Tommy Thompson, KY	Sen. David Bates, RI
Rep. Mike Huval, LA	Rep. Brian Kennedy, RI
Sen. Dan Morrish, LA	Rep. Steve McManus, TN
Rep. Gene Reynolds, LA	Sen. Larry Taylor, TX
Rep. Pete Lund, MI	Rep. Bill Botzow, VT
Rep. George Keiser, ND	Sen. Daniel Hall, WV

Other legislators present were:

Sen. Brian Bushweller, DE	Rep. Don Gosen, MO
Rep. Romy Cachola, HI	Rep. Paul Wieland, MO
Rep. Martin Carbaugh, IN	Sen. David O'Connell, ND
Rep. Peggy Mayfield, IN	Rep. Robert Sprague, OH
Sen. Tom Buford, KY	Rep. Michael Gambrell, SC
Rep. Joe Fischer, KY	Sen. Phil Jensen, SD
Rep. Greg Cromer, LA	Rep. Michael Marcotte, VT
Sen. Ronnie Johns, LA	Rep. Douglas Reynolds, WV
Rep. Ken Goike, MI	Sen. Greg Tucker, WV

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director  
Candace Thorson, Nolan Associates, NCOIL Deputy Executive Director  
Jennifer Webb, Nolan Associates, NCOIL Director of Legislative Affairs—DC  
Eric Ewing, Nolan Associates, NCOIL Director of Legislative Affairs

## MINUTES

Upon a motion made and seconded, the Committee unanimously approved the minutes of its July 11 and 14, 2013, meetings in Philadelphia, Pennsylvania.

## NFIP REFORM IMPLEMENTATION/CONCERNS

Edward Pasterick of the Federal Insurance & Mitigation Administration (FIMA) within the Federal Emergency Management Agency (FEMA) reported that FEMA had paid 127,000 claims related to Superstorm Sandy, amounting to \$7.2 billion in total payments with an average claim of \$57,000. He said that NFIP claims typically averaged \$20,000.

Mr. Pasterick commented that, in his opinion, supporters of the *Biggert-Waters Flood Insurance Reform Act of 2012* did not fully comprehend its impacts. He suggested that *Biggert-Waters* should have taken a different approach in raising rates on subsidized homes and should have focused more on rates related to repetitive loss properties. He also opined that *Biggert-Waters* should have provided a “slower entry” into paying higher charges when properties were newly re-mapped. Mr. Pasterick also said, among other things, that delaying *Biggert-Waters* rate increases “was probably a good idea” because it would allow officials to “find the right fix.”

In response to Committee questions, Mr. Pasterick said, in part, that it would be difficult to estimate costs associated with delaying the *Biggert-Waters* increases, that an optimally effective flood insurance program would strike the correct balance between what the private and public sectors each could cover, and that the majority of properties benefiting from subsidized rates were not expensive beach homes.

## RESOLUTION SUPPORTING DELAY OF BIGGERT-WATERS RATE INCREASES

Rep. Lehman said that a proposed *Resolution Requesting United States Congress to Pass the Homeowners Flood Insurance Affordability Act* had been submitted after the Annual Meeting 30-day deadline, and so required a two-thirds Committee vote to waive the deadline rule in order to consider the proposal. The Committee waived the 30-day rule via unanimous voice vote.

Sen. Morrish, sponsor of the draft resolution, asserted that higher flood insurance rates were a national concern. Representing a Coalition for Sustainable Flood Insurance, which he said was a national alliance formed to ensure that flood insurance was both available and financially stable, Sen. Morrish said that problems related to *Biggert-Waters* included:

- incomplete FEMA flood insurance rate maps that were leading to substantial price increases
- questionable actuarial calculations
- significant premium increases for people who built according to earlier government standards

Sen. Morrish said that the Coalition did not support incentives for building in harm's way or support continued subsidized rates for repetitive loss properties. He said that the goals of the Coalition were to find an immediate solution to the challenges created by *Biggert-Waters* and to find a long-term solution that works for America.

Sen. Morrish said that pending *Homeowners Flood Insurance Affordability Act* legislation (S.1610 and H.R.3370) would delay NFIP rate increases for four years. He said the delay would give FEMA an opportunity to complete its *Biggert-Waters*-mandated study regarding flood insurance availability and affordability and would give Congress an opportunity to consider other recommendations put forth in the study. Sen. Morrish said that S.1610 and H.R.3370 enjoyed significant bipartisan support from congresspersons around the country.

During Committee discussion that followed:

- Rep. Keiser suggested that property owners who built to earlier government standards should be encouraged to implement current mitigation strategies when possible.

- Sen. Morrish said that one problem with *Biggert-Waters* was that it ultimately grandfathered in property owners rather than the properties themselves.
- Sen. Taylor stressed that property owners in flood plains had limited mitigation options when new flood maps significantly raised an area's base elevation height.
- Rep. Damron expressed concern regarding potential federal fiscal impacts of delaying the *Biggert-Waters* rate increases and said that state legislators should take care when telling the federal government how to spend its money.

Birny Birnbaum of the Center for Economic Justice (CEJ) encouraged the Committee to support more state-based, private-market options to provide flood insurance rather than to support NFIP rate delays. He commented that the NFIP in its current form was a troubled program, in part due to the existence of subsidized prices. He suggested that NCOIL might encourage states to require all homeowners' insurance policies to cover flood loss, which he said would harness private insurers' risk classification abilities. He said the federal government could act as a reinsurer against flood risk, as it does regarding terrorism.

Rep. Keiser commented that, although he agreed with many of Mr. Birnbaum's concerns, the *Biggert-Waters* rate increases were an immediate problem that legislators needed to address. Sen. Seward concurred, urging the Committee to bring forward more long-term solutions in 2014.

Rep. Botzow urged the Committee to consider the importance of resiliency efforts, which prevent against future flood-related loss. He noted that flood risk is complicated because some flood damage is due to erosion.

Also during discussion, Kevin McKechnie of the American Bankers Insurance Association (ABIA) supported delay of the rate increases, saying among other things that FEMA should be given the resources to complete its availability and affordability study before raising NFIP rates. Dennis Burke of the Reinsurance Association of America (RAA) said that reinsurers were the only private-market insurers interested in taking on flood risk and that they would cover the catastrophic losses, such as those from Hurricane Katrina, that the NFIP has struggled to pay.

In closing comments, and after Rep. Cromer expressed his support for delaying the NFIP increases, Sen. Morrish said that although private-market flood insurance alternatives may be appropriate, they could not take place overnight, meaning that current rate delays were critical.

Rep. Lehman explained that because the resolution had been submitted after the 30-day deadline, a two-thirds Committee vote was needed for adoption. Upon a motion made by Rep. Keiser and seconded by Sen. Holdman, more than two-thirds of the Committee voted in favor of adoption. Rep. Damron voted in opposition.

Rep. Lehman then recognized Mr. Pasterick of FEMA, who was retiring, for his long-standing work with NCOIL, and Rep. Kennedy specifically acknowledged his role in development of an NCOIL-*FEMA Legislators' Guide to Flood Insurance*.

#### ONGOING TITLE INSURANCE ISSUES

Superintendent Joseph Torti (RI), speaking on behalf of the National Association of Insurance Commissioners (NAIC), reported on NAIC activity, saying that:

- A Title Consumer Shopping Tools Working Group was examining the feasibility of promoting effective consumer shopping for title agents and insurers without delaying real estate closings, and also was developing best practices for design and implementation of cost comparison guides.

- A Title Insurance Task Force had adopted an Escrow Theft White Paper and was monitoring Consumer Financial Protection Bureau (CFPB) activity.
- A Title Insurance Financial Reporting Working Group was evaluating the effectiveness of recent changes to title insurer financial reporting requirements.
- A Title Insurance Guaranty Fund Working Group was drafting a model guideline in lieu of developing a title insurance guaranty fund model law.
- Regulators developing a regulator-only webinar to address market conduct issues related to title insurance.
- An NAIC Market Regulation Handbook now included specific standards related to title insurance.

In response to a question from Rep. Lehman, Superintendent Torti said that some states' property-casualty guaranty fund laws covered title insurance losses.

Michael Stinziano, speaking on behalf of Demotech, Inc., reported on Demotech's recent analysis of title insurance policies in North Carolina and Ohio. He said that Demotech had met with representatives of the North Carolina Department of Insurance to overview the company's study of 133 residential title insurance commitments in the state and had met with Ohio legislators regarding the company's analysis of 150 residential title insurance policies in that jurisdiction. Mr. Stinziano also said that Demotech was working to improve consumer education regarding title insurance.

#### REVIEW OF NCOIL GUARANTY FUND MODEL ACT, AS PER BYLAWS

Due to time constraints, the Committee deferred its bylaws-required review of an NCOIL *Post-Assessment Property and Liability Insurance Guaranty Association Model Act*, and proposed amendments, until the 2014 Spring Meeting.

#### ADJOURNMENT

There being no further business, the meeting adjourned at 5:45 p.m.