

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
PROPERTY-CASUALTY INSURANCE COMMITTEE
PHILADELPHIA, PENNSYLVANIA
JULY 14, 2013
MINUTES

The National Conference of Insurance Legislators (NCOIL) Property-Casualty Insurance Committee met at the Philadelphia Marriott Downtown in Philadelphia, Pennsylvania, on Sunday, July 14, 2013, at 8:00 a.m.

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

Other members of the Committee present were:

Rep. Greg Wren, AL	Sen. Neil Breslin, NY
Rep. Ron Crimm, KY	Rep. Michael Stinziano, OH
Rep. Steve Riggs, KY	Rep. Brian Kennedy, RI
Sen. Dan Morrish, LA	Rep. Charles Curtiss, TN
Rep. George Keiser, ND	Rep. Bill Botzow, VT
Sen. Jerry Klein, ND	Rep. Kathie Keenan, VT

Rep. Don Gosen of MO also attended.

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

INSURANCE CREDIT SCORING

Ms. Thorson reported on 2013 state activity related to insurance scoring, saying that 21 states—including 14 states with NCOIL-based laws/regulations already on the books—had considered new proposals. The only bill to pass, she said, was a proposal in Nevada that requires the insurance division to post a list of insurers that do not use credit information and to update that list every July 1. She said that 16 bills would have banned insurance scoring.

PROPOSED ACORD 875 ENHANCED INSURANCE BINDER ACTIVITY

Rep. Lehman said the Committee in July 2012 had passed a model law regarding use of insurance binders and had requested that interested parties subsequently work to address remaining lender concerns—including, he said, concern that binders related to complex transactions have too few details. He commented that despite efforts undertaken by ACORD, there had been little progress regarding what might be included on a possible “enhanced” binder form, and he questioned the role that NCOIL should continue to play in such deliberations.

Ann Henstrand of ACORD said that an ACORD working group had held a May 30 in-person meeting in New York City, at which interested parties discussed data elements that might be included on an enhanced binder form, as well as p-c industry concerns with doing so. She noted that lender representatives did not attend the meeting. She said ACORD was willing to continue working to facilitate interested-party negotiations.

Kathy Marquardt of the Mortgage Bankers Association (MBA) said lenders had not participated in the May 30 meeting because the p-c industry had not offered its specific, written concerns with

including certain lender-requested data elements on a possible enhanced binder. She said lenders had provided federal forms that lenders are required to complete, among other documentation, to show why the lending industry needs the data it is requesting. She said that specificity of binder information was the primary concern, since the 2012 NCOIL binder model addressed concerns related to binder expiration.

In response to Committee questions, Ms. Marquardt said, among other things, that:

- Loan contracts require borrowers to provide evidence of coverage both at closing and upon renewal, but lenders do not have much “leverage” to receive evidence of coverage once the lender closes on the loan.
- Force placing insurance is a harsh penalty that lenders try to avoid.
- Some lenders find that insurers issue cancellation notices in order to prevent automatic renewals because the insurers may wish to re-examine the insured properties.

Scott Gilliam of The Cincinnati Insurance Companies said that issuance of policies is often delayed because borrowers do not give insurers the information they need to release the policies in a timely way. He said that lenders have contracts with borrowers, not insurers, and that it might be helpful if lenders require borrowers to supply a policy prior to closing so that the borrower is motivated to give the insurer the data it needs.

David Eppstein of the National Association of Professional Insurance Agents (PIA) said that long-term alternatives to creating a proposed enhanced insurance binder, such as creating a system for electronically verifying coverage, held promise. He suggested that any enhanced binder, should it come into play, would be a bridge to a more permanent approach.

Speaking on behalf of the Independent Insurance Agents & Brokers of America (IIABA), Wes Bissett commented that a model law may not be needed to address lender concerns with binder specificity. He said that courts consistently have ruled in favor of borrowers and, by extension, in favor of lenders when coverage is ambiguous. He said the ACORD 28 Evidence of Insurance form that lenders have been using says “for information only” because it is difficult to consolidate a lengthy policy into a brief document. He stated that lenders should focus their efforts on receiving policies in a timely fashion.

Eric Goldberg of the American Insurance Association (AIA) suggested that binder specificity is not a legislative issue and that NCOIL, in adopting its insurance binder and certificate of insurance model acts, already had provided important guidance. He supported efforts under way at ACORD, and he commented that insurers appeared to be issuing policies more quickly.

During Committee discussion, among other things:

- Mr. Eppstein and Mr. Bissett supported lenders’ ability to exercise contractual rights, including potentially requiring force-placed coverage. Mr. Gilliam said he was inclined to oppose use of such insurance.
- Ms. Henstrand said, in her experience, that there was no single perspective among risk managers regarding the appropriateness of using the current “for info only” ACORD 28 form.
- Ms. Marquardt said that lenders were not wedded to any particular form, as long as the document was non-expiring and reliably proved coverage at closing and particularly at renewal. She said lenders may be more concerned about proving coverage than borrowers are because lenders typically are exposed to between 70 and 75 percent of a property’s collateral value.
- Rep. Lehman said there was often a “disconnect” between an agent and a lender because a borrower delays informing the agent of the borrower’s coverage needs. He said educating borrowers could be helpful.
- Rep. Keiser commented that Dodd-Frank Act requirements may be delaying closings.

Ms. Henstrand then cautioned that a new binder form would not be a panacea because use of ACORD forms is voluntary, because some agents and brokers are not authorized to bind coverage, and because insurers often create unique forms for complex transactions rather than use a standardized ACORD or other document.

At the suggestion of Rep. Lehman, the Committee then unanimously voted to request progress reports from ACORD at the 2013 Annual and 2014 Spring Meetings and to hold more extended Committee discussion at the 2014 Summer Meeting.

AIRBAG FRAUD

Howard Goldblatt of the Coalition Against Insurance Fraud reported on the prosecution by a U.S. attorney, who represented the Eastern District of Tennessee, of a Chinese national who was manufacturing counterfeit airbags marketed and installed in the U.S. Mr. Goldblatt said three states subsequently moved forward with legislation to specifically address counterfeit airbag fraud—explaining that New York and Connecticut had passed laws and that, in Ohio, the House had passed a bill and the Senate was likely to consider the issue in the fall. He said an NCOIL *Model Act Regarding Auto Airbag Fraud* did not necessarily address counterfeit products.

Mr. Goldblatt said it was difficult to prosecute the manufacturers of the counterfeit bags because the companies were located in China. He offered to help facilitate the U.S. attorney's participation at NCOIL in the future.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:00 a.m.