

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
PROPERTY-CASUALTY INSURANCE COMMITTEE
SAN FRANCISCO, CALIFORNIA
NOVEMBER 20, 2014
MINUTES

The National Conference of Insurance Legislators (NCOIL) Property-Casualty Insurance Committee met at the Grand Hyatt San Francisco in San Francisco, California, on Thursday, November 20, 2014, at 3:45 p.m.

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

Other members of the Committee present were:

Rep. Kurt Olson, AL	Sen. Carroll Leavell, NM
Sen. Jason Rapert, AR	Sen. Neil Breslin, NY
Rep. Richard Smith, GA	Assem. Kevin Cahill, NY
Sen. Travis Holdman, IN	Sen. James Seward, NY
Rep. Peggy Mayfield, IN	Rep. Bob Hackett, OH
Rep. Robert Damron, KY	Rep. Michael Henne, OH
Rep. Joseph Fischer, KY	Rep. Marguerite Quinn, PA
Rep. Steve Riggs, KY	Sen. David Bates, RI
Rep. Bart Rowland, KY	Rep. Brian Kennedy, RI
Rep. Mike Huval, LA	Sen. William Walaska, RI
Sen. Ronnie Johns, LA	Rep. Michael Gambrell, SC
Sen. Dan "Blade" Morrish, LA	Sen. Robert Hayes, SC
Rep. Pete Lund, MI	Rep. Bill Botzow, VT
Rep. Don Gosen, MO	Rep. Kathie Keenan, VT
Rep. George Keiser, ND	Rep. Warren Kitzmiller, VT
Sen. Jerry Klein, ND	Sen. Daniel Hall, WV
Sen. David O'Connell, ND	Sen. Mike Hall, WV
Rep. Don Flanders, NH	

Other legislators present were:

Sen. Matt McCoy, IA	Sen. John Horhn, MS
Rep. Pete DeGraaf, KS	Assem. Joe Hardy, NV
Rep. Vincent Pierre, LA	Sen. Kevin Bacon, OH
Rep. Ledricka Thierry, LA	Rep. Heather Bishoff, OH
Rep. Janice Cooper, ME	Sen. John Sparks, OH
Rep. Ken Goike, MI	Sen. Roger Picard, RI
Rep. Tom Leonard, MI	Sen. Ronnie Cromer, SC
Rep. Matt Lori, MI	Rep. Craig Eiland, TX
Rep. Ken Yonker, MI	Rep. Poncho Nevárez, TX
Sen. Mike Parson, MO	

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, Nolan Associates, NCOIL Deputy Executive Director
Molly Dillman, Nolan Associates, NCOIL Director of Legislative Affairs
Andrew Williamson, 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 13, 2014, meetings in Boston, Massachusetts.

NFIP DEVELOPMENTS

Gregor Blackburn, Chief of the National Flood Insurance Program (NFIP) Floodplain Management & Insurance Bureau, reported that the NFIP was approximately \$24 billion in debt, had \$30.4 billion in borrowing authority, and had \$150 million in reserve. He discussed the *Homeowner Flood Insurance Affordability Act of 2014*, explaining that it repealed certain provisions of the *Biggert-Waters Flood Insurance Reform & Relief Act of 2012*, made changes to others, and instituted some new reforms.

In particular, Mr. Blackburn said that the *Affordability Act* restored some NFIP subsidies, implemented a surcharge on all policyholders, repealed certain rate increases that already had gone into effect, and provided additional resources for FEMA to complete an affordability study required under *Biggert-Waters*. He said the NFIP was working with Congress and Write-Your-Own companies to implement reforms.

Mr. Blackburn said that in October, FEMA began sending refunds to policyholders whose subsidies were restored by the *Affordability Act*, noting that people receiving refunds represented a small number of total NFIP policyholders. He said FEMA was working on remapping and that a newly created insurance advocate position would help to educate consumers on flood risk and rates, among other things. Mr. Blackburn and Rep. Eiland then discussed issues regarding properties that would be affected by a requirement that rates increase by 25 percent until they reflect full risk. In response to a question from Sen. Morrish, Mr. Blackburn said that properties behind state-maintained levees, not just federally funded levees, could now be charged lower rates.

PROPOSED MEDICAID INTERCEPTION OF INSURANCE PAYMENTS MODEL

Rep. Kennedy, sponsor of a proposed *Model Act Regarding Medicaid Interception of Insurance Payments*, said that a similar system had been in place in his home state of Rhode Island for approximately two years. In that time, he said, the state had processed 44,000 claims, identifying more than 770 insurance claim matches with a value of \$8.6 million. He commented that other states could benefit from such an intercept system.

George French, speaking on behalf of the Rhode Island Medical Assistance Intercept System (MAIS), said the program was modeled after a system used in Rhode Island and in other states to help collect child support payments. Among other things, he said the insurance industry has strongly supported the Rhode Island Medicaid intercept system, which he said applies only to open claims.

Bob Passmore of the Property Casualty Insurers Association of America (PCI) expressed concern that intervening in a property-casualty insurer's claims settlement process could increase costs for consumers. He supported a system in which insurers voluntarily report to an ISO database, saying that the child support system is voluntary and works very well. Mr. Passmore also supported having state agencies work among themselves to help identify Medicaid beneficiaries who have been in auto accidents.

Rep. Eiland and Mr. French then discussed details regarding how the Medicaid intercept system works.

Rachel Jensen of the American Insurance Association (AIA) said the program was an efficient way to handle Medicaid reimbursements. She supported a mandatory reporting system for insurers, commenting that there could be a disproportionate dividing of costs with a voluntary approach.

Upon a motion made by Rep. Kennedy and seconded, the Committee adopted the proposed *Model Act Regarding Medicaid Interception of Insurance Payments* by a vote of 30 to 2. Those who voted in favor of the model were:

Rep. Kurt Olson, AL	Sen. David O'Connell, ND
Sen. Jason Rapert, AR	Rep. Don Flanders, NH
Rep. Richard Smith, GA	Sen. Carroll Leavell, NM
Sen. Travis Holdman, IN	Sen. Neil Breslin, NY
Rep. Peggy Mayfield, IN	Sen. James Seward, NY
Rep. Robert Damron, KY	Rep. Michael Henne, OH
Rep. Joseph Fischer, KY	Rep. Marguerite Quinn, PA
Rep. Steve Riggs, KY	Sen. David Bates, RI
Rep. Bart Rowland, KY	Rep. Brian Kennedy, RI
Rep. Mike Huval, LA	Sen. William Walaska, RI
Sen. Ronnie Johns, LA	Rep. Michael Gambrell, SC
Sen. Dan "Blade" Morrish, LA	Sen. Robert Hayes, SC
Rep. Pete Lund, MI	Rep. Bill Botzow, VT
Rep. Don Gosen, MO	Rep. Kathie Keenan, VT
Rep. George Keiser, ND	Rep. Warren Kitzmiller, VT
Sen. Jerry Klein, ND	Sen. Mike Hall, WV

Those voting against the proposed model were Assem. Cahill and Rep. Hackett.

REVIEW OF NCOIL MODEL ACTS, AS PER BYLAWS INSURANCE SCORING

Ms. Thorson provided an overview of an NCOIL *Model Act Regarding Use of Credit Information in Personal Insurance*, first adopted in 2002. Among other things, she said that the model included an extraordinary life circumstances provision.

Birny Birnbaum of the Center for Economic Justice (CEJ) said that since NCOIL had adopted its insurance scoring model, there had been changes in how insurers use information for rating. He said that some insurers now look at data unrelated to insurance experience and even to credit, such as social media usage and shopping habits. He encouraged the Committee to consider potential enhancements to the NCOIL model to reflect these new data mining practices, expressing concern over what he described as a lack of transparency for consumers. In response to a question from Rep. Eiland, Mr. Birnbaum described "price optimization," in which insurers look to predict a consumer's likelihood of shopping for a new insurer when faced with a rate increase.

Following discussion and upon a motion made by Rep. Keiser, the Committee determined to defer consideration of the NCOIL insurance scoring model in order to address issues raised by Mr. Birnbaum.

GUARANTY FUNDS

Ms. Thorson provided an overview of a 2007 NCOIL *Post-Assessment Property and Liability Insurance Guaranty Association Model Act* and of several proposed amendments to the model. Due to time constraints, the Committee deferred its bylaws-required review until the 2015 Spring Meeting.

CONSUMER LITIGATION FUNDING

Sen. Breslin, sponsor of proposed model legislation to regulate consumer litigation funding, noted that the following day the Committee would consider a revised proposal that he was offering that, among other things, would include a cap on fees.

ADJOURNMENT

There being no further business, the meeting adjourned at 4:45 p.m.