

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
PROPERTY-CASUALTY INSURANCE COMMITTEE
LITTLE ROCK, ARKANSAS
FEBRUARY 27, 2016
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) Property-Casualty Insurance Committee met at the Little Rock Marriott in Little Rock, Arkansas, on Saturday, February 27, 2016, at 8:00 a.m.

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

Other members of the Committee present were:

Sen. Jason Rapert, AR	Sen. Jerry Klein, ND
Rep. Martin Carbaugh, IN	Assem. William Barclay, NY
Rep. Ron Crimm, KY	Sen. Neil Breslin, NY
Rep. Steve Riggs, KY	Sen. James Seward, NY
Rep. Joseph Fischer, KY	Rep. Michael Henne, OH
Sen. Joe Hune, MI	Rep. Brian Kennedy, RI
Rep. George Keiser, ND	Rep. Bill Botzow, VT

Other legislators present were:

Rep. Deborah Ferguson, AR	Sen. Ed Buttrey, MT
Sen. Greg Standridge, AR	Sen. Kevin Bacon, OH
Sen. Travis Holdman, IN	Sen. Gary Stanislawski, OK
Rep. Ken Goike, MI	Sen. Robert Hayes, SC
Rep. Henry Vaupel, MI	Rep. Spencer Hawley, SD

Also in attendance were:

Tom Considine, NCOIL CEO
Paul Penna, Executive Director, NCOIL Support Services
Christina Zuk, Legislative Director, NCOIL Support Services
Paulina Grabczak, Deputy Legislative Director, NCOIL Support Services

MINUTES

Upon a motion made and seconded, the Committee unanimously approved the minutes of its November 14, 2015, meeting in San Antonio, Texas.

BEGIN CONVERSATION OF INSURER USE OF "BIG DATA" IN UNDERWRITING AND RATING, IN LIGHT OF POSSIBLE MODEL LAW BASED ON NCOIL INSURANCE SCORING MODEL ACT

Rep. Lehman said that technology is being used as a driver of the underwriting process. When Rep. Lehman thinks of technology it is not just big data, it is telematics, predictive modeling, drone technology, driver-less cars, and ride-

sharing issues for example. Many questions come up such as what data is being looked at and is it portable carrier to carrier.

Joe Thesing of the National Association of Mutual Insurance Companies (NAMIC) said that on the Property-Casualty side there is a competitive market and customers have more choices than ever. In regard to technology based underwriting, the rule of large numbers has always ruled the insurance industry and continues to do so. It is a function of matching rate to risk accurately. Some have suggested that the industry is moving to individualized rating. However, Mr. Thesing does not believe that is the case because the actuarial data would not be accurate.

Mark Smith of the Insurance Services Office (ISO) said that new data is created every second. The largest driver of this is the millennial generation. By the year 2020, one out of every three constituents will be from the millennial generation. For the insurance industry, this generation represents \$1.3 trillion in purchasing power over their lifetimes. The generation embraces big data and most of them understand that data that is collected on them. Millennials are 2.5X more likely to be early adopters of new technology than earlier generations.

Mr. Smith said that for the mature markets like auto and homeowners, big data allows companies to better segment risk. An example of this is that many more risks that used to be written in the residual markets are now covered through the voluntary markets because of better segmentation and pricing. Telematics is a great example of technology that has revolutionized the auto insurance industry. ISO has signed a contract with General Motors to create the world's first telematics data exchange. It allows policyholders to share their online data through GM's On Star device with any insurance company of their choice. This allows the policyholders to own and control their data and take it from insurance company to insurance company. Mark Smith asked that the focus be on productive and reasonable use of precision data sets that encourage innovation, drive and spur competition, and allow the industry to create new attractive products to the generations that have embraced this technology.

Rachel Jensen of the American Insurance Association (AIA) said that big data is a very broad term and it can have different meanings for different industries. Big data is not unique to insurers and all insurers do not use it in the same way. The threshold question over any big data discussion should be one that sets the parameters of what is big data. Additionally, the concept of big data should be viewed no differently than other technological advances that improve efficiency and operations. A January 2016 Federal Trade Commission report *Big Data: A Tool for Inclusion or Exclusion* stated that big data can create opportunities for low-income and under served communities. Jensen went on to state that the collective challenge is to make sure big data continues to provide benefits and opportunities for consumers while adhering to core consumer protection values and principles. Lastly, the recommendation is that conversations continue, but that they continue with a focus on specific types of big data usage.

Frank O'Brien of the Property Casualty Insurers Association of America (PCI) said that insurance is a data driven industry and has been since before it was known as "big" data. The industry has been dealing with concerns from consumers and regulators from the very beginning. The advances in technology are coming in and fundamentally changing the insurance mechanisms that many are comfortable with and this will continue to be dealt with in a rapidly changing environment. The fair balance and consumer expectations are the key. At a high level, consumers expect that information that is needed will be gathered, it will be used appropriately, and the information will be protected going forward, otherwise it won't be provided again in the future. Mr. O'Brien said that this discussion will continue and it is likely not a discussion that is ever going to end.

Birny Birnbaum of the Center for Economic Justice (CEJ) commented that the consumers have different views on the balance of big data use than what has been presented thus far. There are massive databases with information from millions of consumers, associated data mining and predictive analytics applied to that data, and then scoring models produced from those analytics. These scoring models can encompass basically every aspect of an insurer's business. The growing use of non-insurance data for all these purposes raises issues on fairness and consumer access as well as other issues. The January 2016 FTC report's purpose was to raise concerns about big data's use as a discriminatory tool for exclusion as opposed to inclusion.

Mr. Birnbaum said that many types of data are used with no disclosure and no accountability today. The takeaways on the examples are as follows: (1) market forces cannot and will not protect consumers without some guardrails; (2) innovation without guardrails will lead to unfair outcomes and this has been seen in the past; (3) regulators must be proactive to stop unfair and abusive practices or practices inconsistent with public policy; (4) oversight and limited regulatory intervention can promote more competitive markets and faster adoption of innovative technologies that benefit consumers and fulfill public policy goals; and (5) the potential for harming competition through exclusive agreements between data providers and large insurers is real. As a model law or any other action is considered, the suggestion is that there is a requirement for insurers to initially submit a list of all sources of data, disclose the aspect of the business the data is used for, require the insurer to update the list when new data or sources are used, and publish a report to the Legislature summarizing the types of data used and the sources and any recommendations for legislative activity. This would be a public document so that members of the public the ability to weigh in on the matter.

Wes Bissett of the Independent Insurance Agents & Brokers of America (IIABA) said that it sounds like a work plan will be developed on the issue of big data, but it should be on specific topics. On the issue of telematics, the use of telematics is not limited strictly to auto insurance. There is, however, a need for legislators to look at telematics so that it can be embraced more. There are some discussion

points such as what do the consumers know, if there is consent, and who owns the data and who has access to it. All these issues should be explored if there is to be a model act. Another issue is how portable and standardized the data is. In today's world, data cannot be moved from one carrier to another and the consumer is "stuck" with the carrier that the consumer uses. There should be a standardized portable mechanism to share the data. Overall, this is a big issue and conversations should continue between now and NCOIL's Portland meeting. Mr. Birnbaum supports the recommendations made by Mr. Bissett.

Rep. Henne asked where the balance is between transparency and proprietary information. The big data is used to determine the rate, but where is the line drawn. Commissioner Chaney said that the issue is about keeping the information confidential and to use it correctly.

Birny Birnbaum first stated that he is not a big fan of credit scoring. With credit scoring, there are federal agencies that oversee the bureaus that collect and maintain the data. However, the data has oversight in terms of quality, access, and consent. On the other hand, if a claim is filed and the insurance company channels the consumer to a higher level of scrutiny on the claim the basis for this is not explained. There is no disclosure on the type of information used. The question is if this promotes innovation and more affordability or if it excludes the most vulnerable consumers. A lot of the big data applications out there are not subject to various protections.

Rep. Botzow asked if there is data that should not be collected and how do the legislators know. Mark Smith said that there are factors specifically prohibited by law. Proxies for these factors should also not be used. Commissioner Chaney said that some of the social media background should not be used because it is opinion based and not fact driven.

Rep. Lehman said that a work plan would be started so that when the Portland meeting takes place this conversation is not just being picked back up again from scratch.

INITIAL POSSIBLE CONSIDERATION OF MODEL LAW TO REGULATE TOWING COMPANIES

Lynda Weaver of Nationwide Insurance said that there are many inconsistencies between states with regard to towing. It would be appropriate to consider a model act. Information that has been gathered will be shared.

Rep. Lehman asked Committee members to take a look at their own states to identify issue points for discussion.

UPDATE ON TNC DISCUSSION OF THE SHARING ECONOMY

Frank O'Brien of the Property Casualty Insurers Association of America (PCI) said that NCOIL adopted the TNC Model Act. Very quickly, the NCOIL model has become the centerpiece for discussion. There are 30+ states that have acted on the TNC issue. The NCOIL model has been a success less than a year since its inception.

ADJOURNMENT

There being no other business, the Committee adjourned at 9:20 a.m.