

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
PROPERTY-CASUALTY INSURANCE COMMITTEE
CHARLESTON, SOUTH CAROLINA
MARCH 1, 2015
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) Property-Casualty Insurance Committee met at the Mills House Wyndham Grand Hotel, in Charleston, South Carolina, on Sunday, March 1, 2015, at 7:30 a.m.

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

Other members of the Committee present were:

Sen. Travis Holdman, IN	Sen. Neil Breslin, NY
Sen. Ron Crimm, KY	Sen. James Seward, NY
Rep. Steve Riggs, KY	Rep. Bob Hackett, OH
Sen. Dan Morrish, LA	Rep. Brian Kennedy, RI
Rep. George Keiser, ND	Sen. Robert Hayes, Jr., SC
Assem. Will Barclay, NY	Rep. Warren Kitzmiller, VT

Other legislators present were:

Assem. Ken Cooley, CA
Rep. Mike Henne, OH
Rep. Barbara Sears, OH
Rep. Mike Gambrell, SC

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 November 20 and November 21, 2014, meetings in San Francisco, California.

VEHICLE SERVICE CONTRACTS

Anthony Battaglia of Cal-Tex said that service contracts were created as a way to offer insurance-type products outside of the insurance code, as regulating within the insurance code would be cost-prohibitive. Service contracts, he said, protect against structural and operational failure of a vehicle part, similar to third-party warranties. He said that he would like NCOIL to consider proposed model language that would make technical corrections to state service contract laws in order to reflect legislative intent.

FLOOD INSURANCE DEVELOPMENTS

Ms. Thorson of Nolan Associates reported that the Federal Emergency Management Agency (FEMA) is engaged in two studies with the National Academy of Sciences to provide information for an affordability study required by Biggert-Waters. She said the first study, due at the end of March, would define what "affordability" means. She said the second study, due in September, among other things would demonstrate the outcome of affordability framework testing in North Carolina.

PROPOSED MODEL ACT TO REGULATE TRANSPORTATION NETWORK COMPANIES (TNCs)

Rep. Lehman reported that Rep. Michael Stinziano (OH), who was unable to attend the Spring Meeting, had proposed a model to regulate transportation network companies (TNCs). He noted that several states had adopted TNC legislation and said that Rep. Stinziano's model could serve as a starting point for consideration at NCOIL. Rep. Lehman also suggested that model legislation to regulate the sharing economy would be beneficial.

South Carolina Insurance Director Ray Farmer, on behalf of the NAIC, reported that the NAIC continued to study the subject of ridesharing and after holding a symposium in 2014 had begun drafting a white paper. He said that the innovative nature of TNCs is changing the insurance paradigm and insurers are finding ways to offer coverage for time periods in which coverage now may not apply. He noted a particularly contentious issue is "period one," the interval of time when the online application is on and the driver is available but has not accepted a fare. He said the NAIC will continue to be active on this issue and is willing to work with NCOIL on TNC issues moving forward.

Michael Stinziano Sr. of DemoTech reported that the city of Columbus was an early leader in recognizing the need to regulate TNCs. He said DemoTech serves as the insurance consultant for the city of Columbus and worked with city officials to create a rideshare ordinance that passed in August 2014. He said it is important to require insurers offering TNC coverage to be authorized to do business in the state and to have a solvency rating. He said this will protect passengers, drivers, and the general public.

Frank O'Brien of the Property Casualty Insurers Association of America (PCI) said it is rare to find a state that is not considering TNC legislation. He said that Rep. Stinziano's proposed model incorporates many of the essential elements PCI has put forward and noted that the insurance industry is innovating and finding ways to cover exposures created by TNCs. Mr. O'Brien said he sees this happening in states that have a statutory and regulatory framework in place for TNCs. He said it is good for NCOIL to discuss models that address not only TNCs but the new sharing economy because both are here to stay.

Gus Fuldner of Uber reported that TNC legislative activity exists in 20 states and that Colorado, California, Virginia, and Illinois have enacted legislation. He said municipal ordinances dealing with the transportation-for-hire industry also exist, as this is regulated at different levels in each state. He said that Uber supports regulation as long as regulations are reasonable and recognize what the industry does and the opportunities it creates. Mr. Fuldner said that already six carriers in eight states have admitted insurance products targeted at drivers in this market and that he expects more to come. He suggested that NCOIL look at legislation passed in states in order to compare substantive issues.

Greg Serio of Park Strategies, representing the Taxi, Limousine, and Para-Transit Association (TLPA), said that when a taxi driver is driving, he or she is covered by a commercial policy, and when using the car for personal use, is covered by a commercial policy with incidental personal use. He said that livery activity occurs when people ferry others in a vehicle for a profit. He said that the proposed NCOIL TNC model legislation should reflect certain parity with the traditional livery market in order to give the traditional market some relief for coverage it is required to have that TNCs are not. He said the TNC business model has created an uneven competitive landscape. He said a standard should be set for everyone in the livery industry—Uber, Lyft, and taxi cab drivers alike. Mr. Serio said that transportation regulators are the financial regulators for livery, and insurance regulators regulate those who buy and sell insurance. He said that to create a fair model, insurance and transportation regulators should collaborate.

Rep. Riggs noted that the private vs. commercial vehicle issue is not a new one and that a main issue is that the insurance industry has not changed its definition of what a commercial vehicle is in terms of ridesharing.

Rep. Keiser said that the insurance market is reacting and creating products for "period one," but suggested that in the future regulators may be faced with drivers fraudulently saying they do not use their vehicles for livery purposes.

Mr. Fuldner said that Uber advises its drivers to be truthful when dealing with insurance companies and that it respects the right of insurance companies to include or exclude any coverage they want. He said the coverage Uber provides and the statutes it advocates put the onus on Uber to ensure that vehicles have coverage. He said that while there much discussion about coverage disputes, he is not aware of any going on right now in the U.S.

Rep. Lehman said that this is an important issue and that it will be re-addressed at the next NCOIL meeting.

PROPOSED MODEL ACT REGARDING ROOFER CONTRACTOR FRAUD

Rep. Lehman reported that Rep. Rich Golick (GA) and Sen. Jason Rapert (AR) had proposed a *Roofer Contractor Licensure Model Act* in reaction to what is referred to as "storm chasing." He said storm chasing can happen when a storm or disaster hits an area and out-of-state roofing contractors show up and offer services. He said this has become a serious problem and that legislation is being created to make sure that consumers are protected. He said the main issues addressed in the proposed model are licensure and registration of contractors.

Joe Thesing of the National Association of Mutual Insurance Companies (NAMIC) said that 20 states have adopted contractor liability legislation but that there are many inconsistencies from state to state.

Jerry Zimmerman of Allstate said he is part of a group consisting of several insurance companies that has been working with the National Roofing Contractors Association (NRCA) to address the issue of storm chasing and that, among other things, registration/licensing has been a constant topic of conversation.

Howard Goldblatt of the Coalition Against Insurance Fraud said there has been pushback from contractors in states that don't require contractor licensing because it is viewed as an anti-business issue for them. He said the idea of reciprocity is raised because there should be a system where out-of-state contractors can come into a state with the appropriate license and registration and help after a disaster.

Mr. O'Brien said PCI supports the model but has reservations about the licensing issue and believes that reciprocity provisions might be necessary.

Mr. Serio, speaking from an insurance adjuster perspective, noted that insurance adjusters support the model and specifically appreciate Section X, which addresses the unauthorized practice of public adjusting.

Rep. Keiser said that this is a discovery and enforcement issue and does not require legislative action. He said that states have provisions to protect consumers and only have to discover violations and enforce the law.

Mr. Thesing said there has been an increase in storm chasers and legislators have expressed interest in their states in developing legislation to address the issue.

Rep. Riggs said there should be a statute that forces licensing for contractors from out-of-state. He said that a consumer should be able to research if a contractor is legitimate.

PROPOSED AMENDMENT TO NCOIL MEDICAID INTERCEPTION MODEL

Rep. Kennedy reported that the insurance industry had proposed an amendment to the NCOIL *Medicaid Interception of Insurance Payments Model Act*.

Mr. Thesing said NAMIC believes that structured annuities should be excluded from the model. He said that an annuity is provided to solve or settle a claim, so the property-casualty insurer makes a one-time payment to the life insurer or annuity company, which then makes all future payments. He said because the property-casualty insurers have no further payments, they should be carved out from the model.

After a motion was made and seconded, the Committee unanimously adopted the amendment.

REVIEW OF NCOIL MODEL ACTS, AS PER BYLAWS

Barbara Cox of the National Conference of Insurance Guaranty Funds (NCIGF) said that NCIGF had suggested two amendments to the model adopted by NCOIL in 2007. She said the first amendment would limit the number of covered claims per occurrence to one covered claim, and the second amendment would extend the bar date from 18 to 25 months.

After a motion was made and seconded, the Committee unanimously adopted the proposed amendments.

ADJOURNMENT

There being no other business, the Committee adjourned at 9:00 a.m.