

February 27, 2018

NCOIL Property/Casualty Committee
c/o Will Melofchik

By Electronic Mail

**Re: Support for Revisions to NCOIL Model Regarding Insurance Premium
Discounts for Fortified Homes**

Representative Smith, Representative Santiago and Members of the Property/Casualty
Committee,

The Center for Economic Justice (CEJ) writes to reiterate our support for
amendments to the NCOIL Model State Uniform Building Code to encourage
investments in loss mitigation through appropriate insurance premium discounts.

Attached please find our January 26 letter explaining our support in more detail
and offering some suggested efforts to streamline and clarify some of the provisions of
the amendments.

Thank you for your consideration.

Sincerely,



Birny Birnbaum
Director

January 26, 2018

NCOIL Property/Casualty Committee
c/o Will Melofchik

By Electronic Mail

Re: Support for Revisions to NCOIL Model Regarding Insurance Premium Discounts for Fortified Homes

Representative Smith, Representative Santiago and Members of the Property/Casualty Committee,

The Center for Economic Justice (CEJ) writes in support of loss mitigation discounts and to comment on the proposed amendments to the NCOIL Model State Uniform Building Code.

CEJ is a non-profit consumer advocacy organization representing consumers on insurance, credit and utility issues. We work to ensure fair access to these vital products and services and fair treatment of consumers purchasing and using these services. CEJ has worked on insurance issues for over 20 years and, prior to joining CEJ, I served as the Associate Commissioner for Policy and Research and Chief Economist at the Texas Department of Insurance. I mention this background to explain my experience and expertise in the issues discussed below.

Every state requires cost-based pricing for property insurance. Stated differently, rates may not be excessive, inadequate or unfairly discriminatory. In addition to statutory requirements for cost-based pricing, actuarial standards of practice also require rates to reflect the expected costs of claims and expenses to provide the insurance. These statutory and actuarial requirements for cost-based pricing mean that insurers must provide discounts for consumer actions which reduce the risk of loss. Failure to provide a discount for demonstrated and quantifiable loss mitigation efforts would result in unfairly discriminatory rates. In the case of fortified homes, statutory and actuarial requirements require a discount for investments by consumers to reduce the likelihood or severity of damage caused by various perils, such as cyclone, tornado or earthquake.

Consequently, we support the proposed amendments with some suggested revisions. Our suggested revisions attempt to simplify and clarify the legislation consistent with the intent of encouraging investments in resilient construction by offering discounts for such investments. Our suggested edits are attached in redline.

Section 1A. We suggest changing “property insurance company” to “insurance company offering residential or commercial property insurance in this state” for clarity. We also suggest deleting “or insurance rate reduction” because it is repetitive with premium discount. We also suggest language that more specifically indicates that the premium reduction is required for a policy providing coverage for a building constructed or retrofitted to the IBHS standards, set out in Section C.

We suggest Section A into two sections with new Section B limiting the insurer’s responsibility to provide a discount to situations in which the consumer has provided sufficient evidence of compliance with the IBHS standards.

Section 1B: We relabeled Section B to Section C and offer some edits for simplification and clarification.

Section 1C: We suggest deleting Section C as unnecessary for several reasons. First, the policyholder will only receive a discount if he or she has provided the evidence required by the insurer of construction meeting the IBHS standards. Once the insurer has satisfied itself that the property meets the IBHS standards, there is no need for the consumer to maintain ongoing records. Second, if any entity is required to maintain records, it should be the insurer who is required to provide a discount for IBHS certified construction. Third, it is unclear what public policy purpose is served by requiring the commissioner to audit construction records of a homeowner. It would seem more appropriate for the Commissioner to be auditing insurers to ensure discounts are actuarially-justified and offered fairly to qualified policyholders and applicants for insurance.


Section 1D: We suggest deleting Section D as unnecessary for several reasons. First, for states that do not require rate filings, this section would now require rate filings. Second, states already required that rates be not excessive, not inadequate and not unfairly discriminatory. Consequently, any rates filed with the commissioner and any rates used by insurers must be actuarially justified even in the absence of this section. Third, the benefits of IBHS construction may extend beyond wind and hail coverage and, consequently, the legislation should not arbitrarily limit the scope or impact of the discount. The general rate standards should ensure that insurers analyze and price the benefits of IBHS-certified construction appropriately. Fourth, there is nothing in this section that is not already set out in earlier sections or in the general rate standards of every state.

Section 2. We suggest deleting Section 2. Section 2 repeats Section 1 substituting retrofit for new construction. As shown in our proposed edits to Section 1A, the application of the requirement for a premium discount for IBHS-certified construction for both new construction and retrofit can be accomplished without repeating all of Section 1 as Section 2.

Section 3: We suggest deleting Section 3. Section 3 defines an insurable property for purposes of the discount. We suggest this is unnecessary and inappropriate for a few reasons. First, there is no reason to limit the required discount for IBHS-certified construction to residential properties. Commercial property owners should also be encouraged to invest in – and be rewarded with a premium discount for – construction or retrofit to the IBHS standards. Second, there is no need to define “insurable property” because Section 1A (with our suggested edits) refers to any coverage for any building covered by a residential or commercial property insurance policy. Whether the property is subject to the discount requirement for the IBHS-certified construction will be a function of whether the IBHS has actually developed the relevant standards for that particular type of property. Stated differently, the legislation is self-enforcing on this issue of eligible properties because of the IBHS requirement. Third, as written Section 3 may prevent future discounts for new types of property for which the IBHS has not yet, but may in the future, developed the relevant building standards. Consequently, section 3 will likely require the legislature to return to amend the law as new standards for new types of properties are developed.

Thank you for your consideration.

Sincerely,


Birny Birnbaum
Director

Atlantic Corporate Center
2317 Route 34, Suite 2B
Manasquan, NJ 08735
732-201-4133
CHIEF EXECUTIVE OFFICER: Thomas B. Considine



PRESIDENT: Sen. Jason Rapert, AR
VICE PRESIDENT: Rep. Bill Botzow, VT
TREASURER: Rep. Matt Lehman, IN
SECRETARY: Asm. Ken Cooley, CA

IMMEDIATE PAST PRESIDENTS:
Rep. Steve Riggs, KY
Sen. Travis Holdman, IN

NATIONAL COUNCIL OF INSURANCE LEGISLATORS (NCOIL)

Proposed Amendments to NCOIL Model State Uniform Building Code

**Proposed Amendments are sponsored by Rep. Lewis Moore (OK)*

Suggested Revisions from the Center for Economic Justice

SECTION 1.

A. Beginning January 1, 20XX, ~~any property~~ insurance company offering residential or commercial property insurance in this states shall provide a premium discount ~~or insurance rate reduction for any policy providing residential or commercial property insurance coverage and which policy covers a building which has been certified as built or retrofitted to to any owner who builds or locates a new insurable property in the State of XXXXXXXXXX if the insurable property is certified as being constructed in accordance with~~ the standards set forth in subsection CB of this section.

B. The premium discount specified in Section A shall only be required if the policyholder or applicant for insurance provides sufficient evidence, as determined by the insurance company, of construction meeting the standards of Section C. The insurance company shall not establish unreasonable requirements for the policyholder or applicant for insurance to demonstrate compliance with the standards of Section C. ~~Insurance companies shall be required to offer such a premium discount or rate reduction only when the insurer determines they are actuarially justified and there is sufficient and credible evidence of cost savings, which can be attributed to the construction standards set forth in subsection B of this section. In addition, insurance companies may also offer additional adjustments in deductible, other risk differentials, or a combination thereof, collectively referred to as other adjustments.~~

~~B.~~ C. An insurance company shall offer a premium discount if the insured ~~property~~ To obtain the premium discount, rate reduction, or other adjustment provided in this section, an insurable property in this state shall be is certified as constructed in accordance with as meeting the FORTIFIED Home High Wind and Hail Standards as may from time to time be adopted by the Institute for Business and Home Safety or a successor entity.

An insurable property shall be ~~deemed to meet the certified as conforming to~~ the FORTIFIED Home High Wind and Hail Standards if certified as meeting these standards by only after evaluation and certification by an evaluator qualified certified pursuant to the FORTIFIED Home High Wind and Hail Standards.

~~C.B.~~ An owner of insurable property claiming a premium discount, rate reduction, or other adjustment pursuant to this section shall maintain sufficient certification records and construction records including, but not limited to, a certification of compliance with the FORTIFIED Home High Wind and Hail Standards provided in subsection B of this

Formatted: Normal, Indent: Left: -0.11", No bullets or numbering

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Normal, Indent: Left: -0.11", Right: 0.58", Tab stops: 0.29", Left

~~section, receipts from contractors and receipts for materials. The records shall be subject to audit by the Insurance Commissioner, or his or her representatives, and copies of any such records shall be presented to the insurer or potential insurer of a property owner before the premium discount, rate reduction, or other adjustment becomes effective for the insurable property.~~

~~D. Insurers that write policies that are subject to the premium discount or rate reduction required by this section shall submit a rating plan certified by their actuary as actuarially justified providing for the premium discount or rate reduction described in this section. A premium discount, rate reduction, or other adjustment shall only apply to policies that provide wind or hail coverage and to that portion of the premium for wind or hail coverage. A premium discount, rate reduction, or other adjustment shall apply exclusively to the wind and hail premium applicable to improved insurable property. If an insurer already offers an actuarially justified hail resistance discount, that discount shall be deemed as having met the requirements of this act as it pertains to hail related discounts or rate reductions and no additional hail related discount or rate reduction shall be required. If an insurer already offers an actuarially justified discount for IBHS-FORTIFIED Home standards, that discount shall be deemed as having met the requirements of this act as it pertains to wind related discounts or rate reductions and no additional wind related discount or rate reduction shall be required. Insurers shall apply any applicable premium discount, rate reduction or other adjustment to the wind and hail premium at the policy renewal that follows the submission of the certification to the insurer. At the time of a policy renewal for which a premium discount, rate reduction, or other adjustment has previously been made, the insurer may request documentation or recertification that the fortified standards as described in subsection C of this section continue to be met. In addition to the requirements of this section, an insurer may voluntarily offer any other mitigation adjustment that the insurer deems appropriate.~~

~~SECTION 2.~~

~~A. Beginning January 1, 20XX, property insurance companies shall provide a premium discount or insurance rate reduction to any owner who retrofits an insurable property in the State of XXXXXXXXXX if the insurable property is certified as being retrofitted in accordance with the standards set forth in subsection B of this section. Insurance companies shall be required to offer a premium discount or rate reduction only when the insurer has deemed the adjustments to be actuarially justified and there is sufficient and credible evidence of cost savings, which can be attributed to the construction standards set forth in subsection B of this section. In addition, insurance companies may also offer additional adjustments in deductible, other risk differentials, or a combination thereof, collectively referred to as other adjustments.~~

~~B. To obtain the premium discount, rate reduction, or other adjustment provided in this section, an insurable property shall be retrofitted to the FORTIFIED Home High Wind and Hail Standards, as may from time to time be adopted by the Institute for Business and Home Safety (IBHS) or a successor entity. Wind Zone 3 HUD Code manufactured homes installed on a permanent foundation and retrofitted as defined in the FORTIFIED Home High Wind and Hail Standards, as may from time to time be adopted by the Institute for Business and Home Safety or a successor entity, shall be eligible for the premium discount or rate reduction provided in this section. An insurable property shall be certified as conforming to FORTIFIED Home High Wind and Hail Standards only after evaluation and certification by an evaluator certified pursuant to the FORTIFIED Home High Wind and Hail Standards.~~

~~C. An owner of insurable property claiming a premium discount, rate reduction, or other adjustment pursuant to this section shall maintain sufficient certification records and construction records including, but not limited to, a certification of compliance with the FORTIFIED Home High Wind and Hail Standards as provided in subsection B of this section, receipts from contractors, and receipts for materials. The records shall be subject to audit by the Insurance Commissioner, or his or her representatives, and copies of any such records shall be presented to the insurer or potential insurer of a property owner before the premium discount, rate reduction, or other adjustment becomes effective for the insurable property.~~

~~D. Insurers that write policies that are subject to the premium discount or rate reduction required by this section shall submit rating plans certified by their actuary as actuarially justified providing for the premium discounts or rate reductions described in this section. A premium discount, rate reduction, or other adjustment shall only apply to policies that provide wind or hail coverage and to that portion of the premium for wind or hail coverage. A premium discount, rate reduction, or other adjustment shall apply exclusively to the wind and hail premium applicable to improved insurable property. If an insurer already offers an actuarially justified hail resistance discount, that discount shall be deemed as having met the requirements of this act as it pertains to hail related discounts or rate reductions and no additional hail related discount or rate reduction shall be required. If an insurer already offers an actuarially justified discount for IBHS-FORTIFIED Home standards, that discount shall be deemed as having met the requirements of this act as it pertains to wind related discounts or rate reductions and no additional wind related discount or rate reduction shall be required. Insurers shall apply the premium discount, rate reduction, or other adjustment to the wind premium at the policy renewal that follows the submission of the certification to the insurer. At the time of a policy renewal for which a premium discount, rate reduction, or other adjustment has previously been made, the insurer may request documentation or recertification that the fortified standards as described in subsection C of this section continue to be met. In addition to the requirements of this section, an insurer may voluntarily offer any other mitigation adjustment that the insurer deems appropriate.~~

~~SECTION 3.~~

~~For the purposes of this act, the term "insurable property" includes single family residential property. Insurable property also includes modular homes satisfying the codes, standards or techniques as provided in Section 1 or 2 of this act. Manufactured homes or mobile homes are excluded, except as expressly provided in subsection B of Section 2 of this act.~~

~~SECTION 4.~~

~~This act shall only apply to new insurance policies written, or existing policies renewed, on or after January 1, 20XX.~~

SECTION 5.

The Insurance Commissioner shall promulgate such rules as are necessary to implement and administer this act.

