

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS  
SUBCOMMITTEE ON NATURAL DISASTER INSURANCE LEGISLATION  
DUCK KEY, FLORIDA  
NOVEMBER 19, 2004  
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) Subcommittee on Natural Disaster Insurance Legislation met at Hawk's Cay Resort in Duck Key, Florida, on Friday, November 19, 2004, at 1:30 p.m.

Rep. Craig Eiland of Texas, chair of the Subcommittee, presided.

Other members of the Subcommittee present were:

Sen. Steven Geller, FL

Rep. George Keiser, ND

Other legislators present were:

Rep. Donald Brown, FL

Rep. Terry Parke, IL

Sen. Duane Mutch, ND

Sen. Carroll Leavell, NM

Assem. Nancy Calhoun, NY

Rep. Gene Seaman, TX

Rep. Larry Taylor, TX

Also in attendance were:

Candace Thorson, NCOIL Director of Legislative Affairs & Education,  
Property-Casualty and Workers' Compensation Insurance

#### IMPACTS OF 2004 HURRICANES

Florida Insurance Commissioner Kevin McCarty reported on issues regarding the four hurricanes that struck the state in 2004: Charley, Frances, Ivan, and Jeanne. Among other things, he said, the devastation was more widespread than with Hurricane Andrew in 1992. He said that 12 years ago, just three counties in Florida had been impacted by the storm. This year, Commissioner McCarty reported, 63 counties were affected, resulting in 1.4 million claims. He said catastrophe models had overestimated potential losses for stick-built houses and had underestimated those for mobile homes.

Commissioner McCarty noted that 12 small insurers had been forced into insolvency as a result of Hurricane Andrew but that all insurers currently operating in Florida were expected to remain in business despite recent losses. He said the state's catastrophe fund, established in response to Hurricane Andrew, would provide reinsurance coverage for companies' natural disaster losses. He then commented that many states had sent emergency personnel to help Florida recover from the hurricanes and that the insurance department and insurers were working hard to process claims.

Commissioner McCarty said one issue that had arisen as a result of the storms was whether policyholders should be forced to pay a deductible for each hurricane that affected them in 2004. Some victims, he said, were paying three and four deductibles. He predicted that the state would begin addressing the issue in the near future.

#### PENDING FEDERAL NATURAL DISASTER INSURANCE LEGISLATION

Scott Gilliam of the Cincinnati Insurance Companies said legislation was pending in Congress that would help insurers prepare for natural disaster losses in two distinct ways. He reported that H.R. 4186 would amend IRS tax code to allow companies to establish tax-deferred catastrophe reserves. This approach, he said, had been introduced for several successive years but never managed to get significant consideration, in part because analysts had estimated that the system would cost the federal government several million dollars. Mr. Gilliam commented, however, that this prediction assumed that all property-casualty insurers would set aside tax-deferred reserves, when, in fact, only those with significant catastrophe losses might be expected to do so.

Mr. Gilliam said that H.R. 1552 would establish a federal reinsurance program for catastrophic natural risks and that this approach also had been considered for quite a while. He noted that former Rep. Rick Lazio (NY) several years ago had introduced H.R. 21, which perhaps had received the most consideration of any piece of federal natural disaster insurance legislation. He said that Rep. Lazio's bill also would have created a federal reinsurance program.

Mr. Gilliam concluded that with other Congressional priorities occupying legislators' interest, natural disaster insurance legislation continued to stand little chance of serious Congressional consideration.

Sen. Geller noted that NCOIL had sent a letter to Rep. Bradley Sherman (D-CA) applauding his recent effort to raise Congressional awareness of the need for federal natural disaster insurance legislation. Sen. Geller said Rep. Sherman had offered an amendment to the TRIP-reauthorization bill that would have included in it natural disaster risks. He said the proposal had been declared non-germane and had been taken off the table.

#### PROPOSED NATURAL DISASTER INSURANCE OPTIONS

Rep. Eiland reminded the Subcommittee that during the 2004 NCOIL Summer Meeting legislators had adopted a resolution that committed NCOIL to investigating various options for natural disaster insurance legislation. He said these options would be alternatives to either a tax-deferred approach or a reinsurance program. Rep. Eiland said the options were: basing a natural disaster insurance system on the Terrorism Risk Insurance Program (TRIP); incorporating natural disaster risks into the National Flood Insurance Program (NFIP);

amending TRIP to include natural disaster insurance; and creating a regional or national natural disaster catastrophe fund.

Ed Pasterick of the Federal Emergency Management Agency (FEMA) commented that legislators would likely have much difficulty convincing Congress that there was a broad enough coverage gap to warrant folding natural disaster losses into the NFIP. He said the flood insurance program had been created in the 1960s because Congress had realized that flood risks were a national problem that threatened the economic health of insurers across the country. He said insurers had not been providing the coverage consumers needed, forcing the federal government to step in.

Mr. Gilliam addressed each proposed option individually. He commented that modeling natural disaster legislation on TRIP was an idea worth investigating, though Congress would need to resolve concerns related to the threshold at which a TRIP-like program would be triggered.

Regarding incorporating natural disaster losses into the NFIP, Mr. Gilliam said it would be a “recipe for disaster” and encouraged NCOIL to abandon the notion.

Mr. Gilliam said amending TRIP to include natural disaster risks would be difficult. He said this was because the odds of experiencing a terrorist attack and those of experiencing a natural disaster were very different.

As to creating a regional or national fund, Mr. Gilliam said his primary concern was that such a mechanism could displace the private market.

Sen. Geller said, among other things, that a one-in-100-year natural event, whether it was a volcano, hurricane, earthquake, mudslide, or some other natural hazard, would devastate insurance markets across the country. He said it was a certainty that such an event would take place sometime in the future, and he expressed deep concern regarding Congress’ failure to act.

After some discussion, the Subcommittee determined to continue working toward federal consideration of a natural disaster insurance mechanism.

#### ADJOURNMENT

There being no further business, the meeting adjourned at 2:30 p.m.