

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
SUBCOMMITTEE ON NATURAL DISASTER INSURANCE LEGISLATION
SEATTLE, WASHINGTON
JULY 19, 2007
MINUTES

The National Conference of Insurance Legislators (NCOIL) Subcommittee on Natural Disaster Insurance Legislation met at the Sheraton Seattle Hotel & Towers in Seattle, Washington, on Thursday, July 19, 2007, at 10:00 a.m.

Sen. Dean Kirby of Mississippi, chair of the Subcommittee, presided.

Other members of the Subcommittee present were:

Rep. Donald Brown, FL	Rep. Donald Flanders, NH
Rep. Pat Patterson, FL	Sen. William J. Larking, Jr., NY
Sen. Ralph Hudgens, GA	Rep. Larry Taylor, TX
Rep. George Keiser, ND	

Other legislators present were:

Rep. Kurt Olson, AK	Sen. Keith Faber, OH
Sen. Ruth Teichman, KS	Sen. David Bates, RI
Rep. Ron Crimm, KY	Rep. Brian Kennedy, RI
Rep. Robert Damron, KY	Sen. William Walaska, RI
Rep. Dennis Keene, KY	Rep. Charles Curtiss, TN
Rep. Susan Westrom, KY	Rep. Craig Eiland, TX
Sen. Delores Kelley, MD	Rep. Kathleen Keenan, VT
Rep. Joe Atkins, MN	Rep. Warren Kitzmiller, VT
Rep. Frank Wald, ND	Rep. Michele Kupersmith, VT
Sen. Pete Pirsch, NE	Rep. Virginia Milkey, VT
Assem. Nancy Calhoun, NY	Sen. Craig Pridemore, WA
Sen. Stephen Saland, NY	Sen. Dale Schultz, WI

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director
Mike Humphreys, NCOIL Director of Legislative Affairs & Education, Life, Health, and Workers' Compensation Insurance

MINUTES

The Subcommittee voted unanimously to approve the minutes of its March 1, 2007, meeting in Savannah, Georgia.

PENDING NATURAL DISASTER INITIATIVES

John Lobert of the Property-Casualty Insurance Association of America (PCI) overviewed state and federal natural disaster insurance legislation. Regarding state activity, he said, the following states had considered proposals.

- **Louisiana**
HB 678 (*enacted*) establishes a program to provide capital grants to certain insurers to encourage market participation, and authorizes legislature to create a state catastrophe fund based on an NCOIL model law.
House Resolution 1 (*approved*) requests that the House Insurance Committee investigate the possibility of creating a regional, Gulf Coast catastrophe pool.
- **Massachusetts**
SB 624 would create a state catastrophe fund for windstorm risk.
- **Missouri**
SB 518 would create a state catastrophe fund for earthquake risk.
- **New Jersey**
A. 3236/S. 2620 would create a state catastrophe fund for hurricane risk.
- **New York**
S. 1883/A. 5118 would create a state catastrophe fund for hurricane and ice storm risk.
S. 3800 would create a state catastrophe fund for hurricane, earthquake, and terrorism risk.
- **Rhode Island**
H. 6092 would create a special House commission to investigate the impacts that natural disasters have on property insurance costs and state requirements.
- **Texas**
HB 3272 would create a state catastrophe fund for hurricanes, tornadoes, and other types of natural disasters.

Regarding federal proposals, Mr. Lobert said Congress was considering bills that would, among other things, 1) establish reinsurance programs to promote lower property insurance costs; 2) create bipartisan commissions to study issues regarding natural disaster insurance and to recommend any necessary legislation; 3) amend IRS tax code to allow policyholders to contribute to tax-exempt catastrophe saving accounts (CSAs); and 4) amend the tax code to allow insurers to set aside tax-exempt reserve funds to pay natural disaster–related claims.

Mr. Lobert opined that H.R. 920, a bill introduced by Rep. Gene Taylor (D-MS) to incorporate wind risk into the National Flood Insurance Program (NFIP), would be an administrative and financial nightmare.

Mr. Lobert and Brett Palmer of the National Association of Insurance Commissioners (NAIC) discussed the nature of recent NAIC testimony before a House Subcommittee on Housing and Community Opportunity regarding H.R. 920. Mr. Lobert characterized the NAIC testimony as having supported H.R. 920, while Mr. Palmer said the organization had simply reiterated its support for an all-perils system.

James Tuite of State Farm Insurance Companies reported that congressmen from California and Florida were expected to introduce a bill that would provide federal tax incentives to states that enact strong building codes, similar to an NCOIL building code model act.

NAIC NATURAL CATASTROPHE ACTIVITY

David Foy of the Florida Office of Insurance Regulation, representing the NAIC, commented that the recent NAIC testimony before the House Subcommittee on Housing and Community Opportunity had not directly supported Rep. Taylor’s bill. Rather, he said, the NAIC had simply acknowledged its support for a national all-perils insurance policy.

Mr. Foy said the NAIC had conducted a survey regarding homeowners' understanding of their insurance policies. He reported that 33 percent of property owners believe that flood damage is covered and 35 percent believe that earthquake damage is covered in their standard homeowners' policies. He said homeowners expect to be made whole following a loss.

Mr. Foy said that the NAIC believed that a national natural catastrophe program should:

- promote personal responsibility and preparedness
- support reasonable building codes and development plans
- maximize the benefits and strengths of private markets
- enable policymakers by requiring quantifiable information regarding risk management

Birny Birnbaum of the Center for Economic Justice (CEJ) said that CEJ and other consumer groups support all-perils insurance coverage, such as that proposed by the NAIC, but oppose including wind insurance in the NFIP. He commented that the flood program was an already overburdened "disaster." He said that when insurers are allowed to "peel off" layers of coverage (e.g., flood risk) they are less committed to promoting mitigation and responding to climate change and other concerns. He said that no funding mechanism could handle the increasing frequency and severity of natural disasters that result from climate change.

In response to questions from Sen. Hudgens, Mr. Birnbaum said a mandatory multi-perils insurance policy would spread all risks nationally at actuarially sound prices. He commented that this system would end insurers' current practice of unfairly concentrating the costs of insuring certain perils (such as wind) in small geographic areas—which he said results in taxpayers in those smaller areas paying more than they should.

Rep. Brown said insurance means spreading risk among people with similar risks and cautioned that with all-perils policies, risk-based pricing would become political and that there would be significant cross-subsidies.

NAIC MEGA-CATASTROPHE PLAN

Ms. Thorson overviewed recent NCOIL-NAIC discussions regarding a proposed NAIC plan to establish a national mega-catastrophe system. She said that in 2006 the Subcommittee agreed to review the proposed plan and convey initial comments to regulators as the Subcommittee proceeded with its discussions. She said that following the 2006 NCOIL Annual Meeting, the Subcommittee sent the NAIC Catastrophe Insurance Working Group its remarks regarding Layer One of the draft, which she said addressed insurance contracts, mitigation, and tax-deferred catastrophe reserves.

Ms. Thorson noted that Layer Two would rest responsibility on optional state or regional catastrophe funds and Layer Three would place final responsibility on a federal catastrophe backstop should a newly created Federal Natural Catastrophe Commission determine such a need.

Following discussion, the Subcommittee deferred indefinitely its review of the NAIC proposal in favor of pursuing NCOIL natural catastrophe initiatives.

LAND USE

Rep. Keiser discussed the importance of effective state land-use policies in minimizing losses from natural disasters. He said land use was part of a multi-pronged approach that also included strong statewide building standards and establishment of an appropriate catastrophe financing mechanism. He noted that NCOIL had adopted a building code model act at its 2007 Spring Meeting.

Rep. Keiser spoke to, among other things, what he described as “very successful” land-use strategies in North Dakota that regulated development along the Missouri River. He said a proposed *Resolution Regarding State Land-Use Policies*, which he was sponsoring with Sen. Steven Geller (FL), encouraged states to evaluate their land use and other hazard mitigation plans and set forth items that should be included in land-use programs.

Rep. Keiser said a proposed friendly amendment to the resolution, which he was also sponsoring, would add language encouraging state adoption of the NCOIL building code model act and, among other things, urging collaboration with the Federal Emergency Management Agency (FEMA) regarding an appropriate allocation of disaster mitigation grants.

Following discussion, the Subcommittee voted by two-thirds to waive the 30-day deadline rule in order to consider and adopt the friendly amendment. The Subcommittee then voted unanimously to adopt the amended resolution.

STATE CATASTROPHE FUNDS

Ms. Thorson said Sen. Geller had submitted a proposed *Resolution Regarding a New Approach to State Catastrophe Funds and Federal Mega-Disaster Assistance* but that it had not met the 30-day deadline for the NCOIL Summer Meeting. She explained that the Subcommittee would need to vote by two-thirds to waive the 30-day rule and consider the resolution.

Ms. Thorson said the resolution recognized that various types of natural disasters threaten states and communities both inland and along coastlines; overviewed long-standing NCOIL support for certain natural disaster initiatives; and recognized congressional interest in the issue. The resolution, she said, supported a system in which optional state/regional catastrophe funds would serve as pass-through mechanisms for distribution of federal monies following qualified natural disasters. Ms. Thorson said the monies would be interest-free loans payable to the Treasury over 20 years.

Sen. Kirby noted that Sen. Geller was not attending the Summer Meeting. The Subcommittee decided against waiving the 30-day deadline rule so that Sen. Geller might submit his resolution in accordance with the deadline for the Annual Meeting and speak to his resolution at that time.

CLIMATE CHANGE

Sen. Craig Pridemore of Washington State overviewed recent climate change efforts in Washington, including S. 6001, a bill that he had introduced and that the governor had recently signed into law. Sen. Pridemore said S. 6001 focused on the role that energy production plays in greenhouse gas emissions, though he noted that transportation, which was not addressed in S. 6001, is also a significant factor.

Sen. Pridemore said S. 6001 established specific numerical targets for reductions in greenhouse gases. He said the bill lowered gas emissions to 1990 levels by 2020; to 25 percent below 1990

levels by 2035; and to 50 percent below 1990 levels by 2050. He contrasted these targets to those in the Kyoto Treaty.

Sen. Pridemore said that Kyoto required all industrialized nations to reduce their emissions to 5.2 percent of 1990 levels by 2012. He commented that although Washington State's plan was not as aggressive as Kyoto's, the state already emitted a low level of greenhouse gases due partially to its reliance on hydroelectric power.

Sen. Pridemore said that S. 6001 also increased the number of "clean" energy-sector jobs in Washington from the current 8,400 to 25,000 by 2020. He then spoke to issues regarding natural versus human influences in greenhouse gas emissions.

In response to a question from Sen. Teichman, Sen. Pridemore said legislatures should be state-specific when tailoring their climate change proposals, noting that Washington's primary concern was mountain snow packs while agricultural influences, such as in the Midwest, were less relevant.

Sen. Pridemore said the greatest opposition to S. 6001 came from large companies, such as Microsoft and Boeing, that had concerns regarding the future price of energy production. He said the timeline for consideration of S. 6001 prevented lawmakers from reviewing its financial impacts. Regarding coal energy, he said only future coal-producing companies would be subject to the S. 6001 mandates.

Sen. Pridemore said Washington had several years ago begun to push biofuels, but he noted that the degree of energy expended to produce those fuels as compared to their ultimate benefit made the efficiency of biofuels questionable. He commented that biofuels would not be a long-term solution.

Mr. Palmer of the NAIC overviewed recent activity of its Global Climate Change Task Force. He said regulators were working on a white paper regarding the impacts of climate change on the insurance industry. He said the Task Force was considering whether insurers should make enhanced disclosures as to the impact of climate change on their operations.

MISSISSIPPI WIND POOL LEGISLATION

Sen. Kirby said Mississippi had recently passed legislation that would reform its state wind pool in light of recent hurricane activity. He said the legislation:

- gives \$20 million to the wind pool every year for the next four (4) years so that it can purchase additional reinsurance
- grants insurers an annual premium tax credit, up to \$100,000 per year per insurer
- allows the commissioner to levy assessments of up to 10 percent of premium written in order to compensate for claims deficits
- allows the commissioner to impose surcharges on non-admitted carriers, excluding workers' compensation and medical malpractice
- requires the commissioner to approve any rate for wind pool coverage
- requires that the amount of wind pool reinsurance increase every two (2) years
- provides that insurers may fully recoup the amount of their assessments to the wind pool by immediately assessing their policyholders, rather than waiting for the insurance department to approve insurer rate increases

ADJOURNMENT

There being no further business, the meeting adjourned at 12:00 p.m.

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