

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
SUBCOMMITTEE ON NATURAL DISASTER INSURANCE LEGISLATION
NEWPORT, RHODE ISLAND
JULY 7, 2005
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) Subcommittee on Natural Disaster Insurance Legislation met at the Hotel Viking in Newport, Rhode Island, on Thursday, July 7, 2005, at 11:15 a.m.

Sen. Steven Geller of Florida, co-chair of the Subcommittee, presided.

Other members of the Subcommittee present were:

Sen. Joe Crisco, CT

Rep. Rich Golick, GA

Rep. George Keiser, ND

Rep. Donald Brown, FL

Other legislators present were:

Rep. Steve Fontana, CT

Rep. Pat Patterson, FL

Rep. Greg Davids, MN

Sen. Carroll Leavell, NM

Sen. Duane Mutch, ND

Rep. Frank Wald, ND

Rep. Brian Kennedy, RI

Rep. Virginia Milkey, VT

Also in attendance were:

Candace Thorson, NCOIL Director of Legislative Affairs & Education, Property-Casualty Insurance

MINUTES

The Subcommittee voted unanimously to approve the minutes of its March 3, 2005, meeting in Hilton Head, South Carolina.

FLORIDA'S VALUED POLICY LAW

John Garaffa of the law firm Butler Pappas Weihmuller Katz Craig LLP overviewed recent activity regarding Florida's valued policy law, as well as key issues related to other state valued policy statutes. He said that though the laws originated to cover fire risks, many have expanded over the years and now vary in scope and the types of perils covered.

Among other things, Mr. Garaffa said that a 2004 lawsuit, *Mierzwa v. Florida Windstorm Underwriting Association*, would have significantly impacted property-casualty insurers in Florida by requiring a wind insurer to pay the full value of a destroyed home, even if a non-covered peril (such as flood) also contributed to the loss. He said that the legislature had subsequently enacted a law that reversed the effect of the ruling.

Sen. Geller commented that the new law had troubling consequences. He said that under the legislation, an insurer would not have to pay a policyholder to rebuild his/her home if less than 50 percent of the damage was the result of a covered peril. He said, for instance, that even if a homeowner had purchased full wind and flood coverages, he would receive nothing if wind led to 40 percent of the loss and flood to 20 percent. Sen. Geller added that the state's lack of authority over the federal flood insurance program contributed to the difficulty.

FEDERAL NATURAL DISASTER INSURANCE LEGISLATION

Sen. Geller said that the private market would be unable to cover losses from a \$100 billion catastrophic event, whether it was the result of terrorism or a natural disaster. He said that the federal government must step in during those instances, and he encouraged Congressional consideration of various options, including the establishment of a combined terrorism/natural disaster insurance program.

Ms. Thorson reported that Rep. Mark Foley (R-FL) had introduced H.R. 2668, which would establish a tax-deferred catastrophe reserve for losses from natural disaster risks. She noted that Rep. Foley had introduced similar measures for the last three years and that he had been unable to secure a hearing on any of the bills. She said an early Congressional Budget Office (CBO) analysis that predicted that a tax-deferred reserve would cost the federal government millions of dollars proved to be a substantial impediment. Ms. Thorson reported that the CBO assumed that all insurers would set aside such reserves, though it was anticipated by many observers that only insurers with significant exposure to natural catastrophes would participate.

STATE DISASTER PLANNING

Ms. Thorson reported that, as a result of the four hurricanes to hit Florida in 2004, a Joint Select Commission on Hurricane Insurance had studied ways to promote availability and affordability of coverage in the state. She said the group had released 20 proposed recommendations addressing, among other things, hurricane deductible issues, the Florida Hurricane Catastrophe Fund, Citizens Property Insurance Corporation, hurricane loss mitigation and models, non-renewals of damaged homes, disputes regarding repair costs, the state's insurance consumer advocate, and sinkhole issues. She said the legislature had dealt with several of the Commission's proposals.

Representatives of Allstate spoke of the devastating effects of natural disasters and said that the costs of a \$100 billion storm would represent approximately 40 percent of the industry's 2004 surplus. They said, among other things, that a mega-catastrophe would impact policyholders across the nation, even in states perceived to be relatively disaster-free. They urged legislators to readopt the NCOIL *Natural Disaster Catastrophe Fund Model Act*, scheduled for full Property-Casualty Insurance Committee consideration the next day.

Ray Spudeck of the Florida Office of Insurance Regulation overviewed recent National Association of Insurance Commissioners (NAIC) activity regarding natural disaster insurance. He noted that the NAIC would hold a summit on catastrophe risks during the September NAIC meeting in New Orleans, and he encouraged NCOIL to participate. He said regulators in September also would consider a resolution to promote state natural disaster preparedness efforts. He added that Rep. Foley's bill, H.R. 2668, would help consumers and should not be thought of as "tax breaks for the rich insurance companies."

Brad Kading of the Reinsurance Association of America (RAA) said, among other things, that his organization did not support combining terrorism and natural disaster risks because of the different 1) levels of insurer exposure and 2) ability of models to predict future loss.

FUTURE SUBCOMMITTEE ACTION

Sen. Geller urged legislators and other interested parties to work together toward enactment of federal natural disaster legislation, whether it would combine terrorism and natural disaster insurance risks, fold natural disaster into the National Flood Insurance Program (NFIP), allow for tax-deferred catastrophe reserves, or establish some other system. He said the commitment of large states, such as New York, California, and Florida, would help bring attention to the problem.

Rep. Golick also expressed concern that there did not appear to be "an urgent national conversation" on the issue and encouraged legislators and others to become more actively involved.

ADJOURNMENT

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