

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
PROPERTY-CASUALTY INSURANCE COMMITTEE
HILTON HEAD, SOUTH CAROLINA
MARCH 4, 2005
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) Property-Casualty Insurance Committee met at the Hilton Oceanfront Resort in Hilton Head, South Carolina, on Friday, March 4, 2005, at 10:30 a.m.

Rep. George Keiser of North Dakota, chair of the Committee, presided.

Other members of the Committee present were:

Rep. Donald Brown, FL
Sen. Bill Brady, IL
Rep. Shirley Bowler, LA
Rep. Joe Hune, MI
Rep. Leslie Mortimer, MI
Rep. David Robertson, MI
Sen. Alan Sanborn, MI
Sen. Pam Redfield, NE
Rep. Don Flanders, NH
Assem. Nancy Calhoun, NY
Sen. William J. Larkin, Jr., NY
Sen. James Seward, NY
Rep. Frank Wald, ND
Rep. David Evans, OH
Sen. Jay Hottinger, OH
Rep. Geoff Smith, OH
Rep. Tony Melio, PA
Rep. Brian Kennedy, RI
Rep. Dan Tripp, SC
Rep. Craig Eiland, TX
Rep. Larry Taylor, TX
Del. Harvey Morgan, VA
Rep. Kathleen Keenan, VT
Rep. Gini Milkey, VT
Rep. Mark Young, VT

Other legislators present were:

Rep. Pat Patterson, FL
Rep. Terry Parke, IL
Sen. Nancy Sullivan, ME
Rep. David Hildenbrand, MI
Rep. Gabe Leland, MI
Rep. Morris Hood, MI
Sen. Jerry Klein, ND
Assem. Ivan Lafayette, NY

Sen. Stewart Greenleaf, PA
Rep. Michael Reese, VT

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, NCOIL Director of Legislative Affairs & Education,
Property-Casualty Insurance
Paul Donohue, NCOIL Director of State-Federal Relations
Franesa Liebich, NCOIL Director of Legislative Affairs & Education,
Health, Life, and Workers' Compensation Insurance

MINUTES

The Committee voted unanimously to approve, with one technical change, the minutes of its November 18, 2004, meeting in Duck Key, Florida.

SUBCOMMITTEE ON NATURAL DISASTER INSURANCE LEGISLATION

Rep. Tripp, chair of the Subcommittee, reported that legislators had heard a report regarding the Puerto Rican natural disaster catastrophe fund. He said that the fund had been referenced during the 2004 NCOIL Annual Meeting as a possible model for a catastrophe fund here in the United States.

Rep. Tripp continued that the Subcommittee had heard a report from the Florida Insurance Department regarding multiple deductible insurance issues arising from the four hurricanes that struck the state in 2004. He noted that the Florida legislature had been actively addressing the matter.

Rep. Tripp also said that the American Academy of Actuaries (AAA) had discussed potential actuarial issues related to proposed options for natural disaster insurance legislation.

STATE ACTIVITY REGARDING RATE MODERNIZATION

Neil Alldredge of the National Association of Mutual Insurance Companies (NAMIC) reported that some states had taken action on rate modernization but that state activity was not as widespread as in previous years. Among other things, he said that Nebraska had unanimously adopted a personal lines rating bill the day before. Alaska, Connecticut, North Dakota, and Mississippi also had considered legislation, he said. Mr. Alldredge commented that it was particularly important for large states to enact rate reforms.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP)

Ed Pasterick of the Federal Emergency Management Agency (FEMA) reported that, as part of Congress's reform of the NFIP in September 2004, FEMA was required to develop insurance agent education and training requirements for the federal flood insurance program. He said that FEMA does not have authority to establish such state requirements and that, as a result, FEMA was asking state legislatures and regulators for their assistance. He commented that Congress had not understood the complexity of the mandate when enacting the NFIP reform.

Mr. Pasterick said that FEMA had developed the required standards and looked forward to working with NCOIL in order to institute them—particularly following the success of FEMA’s earlier collaboration with NCOIL, which resulted in *Rising Waters, Mounting Challenge: A Legislator’s Guide to Flood Insurance*. He said that the new requirements would not burden states with additional costs because, among other things, FEMA already had many of the necessary trainers in place.

AFTERMARKET CRASH PARTS

Rep. Keiser said the Committee would next consider a proposed *Certified Aftermarket Crash Parts Model Act*. He said the proposal would, among other things, endorse certification of aftermarket crash parts by third-party organizations, such as the Certified Automotive Parts Association (CAPA), and would require disclosure as to the use of certified aftermarket crash parts.

Rep. Keiser noted that several years ago the Committee had devoted more than a year to consideration of the draft, including holding a hearing and a special meeting and forming a task force. The Committee had adopted the proposed model act at the 2001 NCOIL Annual Meeting, he said, but the Executive Committee later that day had remitted the proposal to the P-C Committee, citing a need for further discussion. Rep. Keiser said that at the 2002 Annual Meeting the next year, the P-C Committee had deferred further review of the proposed model act until the 2005 Spring Meeting. Legislators at the time had cited a need to address other issues, he said.

Rep. Keiser overviewed possibilities for Committee action. He said legislators either could 1) vote to resume consideration of the proposed model act, 2) vote to defer the issue indefinitely, or 3) choose to address the matter through some other vehicle, such as a resolution.

Jim Kiley of the Alliance of Automotive Manufacturers (AAM) said, among other things, that consumers had reasonable expectations that their cars would be repaired to pre-accident conditions. He said that use of aftermarket crash parts, whether certified or not, would fail to meet those expectations. Mr. Kiley commented that only original equipment manufacturer (OEM) parts, which car companies produce, would be appropriate. He urged the Committee to defer indefinitely further consideration of the proposed model act.

Jack Gillis of CAPA said, in part, that certified aftermarket crash parts often are of better quality than OEM parts. He said that aftermarket and OEM parts are frequently manufactured in the same facilities and that certified parts encouraged competition and led to significant consumer savings by challenging the car-company monopoly. He urged the Committee to resume consideration of the proposed model act.

Sen. Sanborn made a motion to defer indefinitely the draft model law. Rep. Hune seconded the motion. Following Committee discussion, legislators defeated the motion by a vote of 13 to 10.

Those in favor of indefinitely deferring consideration of the model act were:

Rep. Joe Hune, MI
Rep. Leslie Mortimer, MI
Rep. David Robertson, MI
Sen. Alan Sanborn, MI
Sen. Pam Redfield, NE
Rep. Don Flanders, NH
Sen. William J. Larkin, Jr., NY
Rep. Tony Melio, PA
Del. Harvey Morgan, VA
Rep. Gini Milkey, VT

Those opposed to indefinitely deferring consideration of the model act were:

Rep. Donald Brown, FL
Rep. Shirley Bowler, LA
Assem. Nancy Calhoun, NY
Sen. James Seward, NY
Rep. Frank Wald, ND
Rep. David Evans, OH
Sen. Jay Hottinger, OH
Rep. Brian Kennedy, RI
Rep. Dan Tripp, SC
Rep. Craig Eiland, TX
Rep. Larry Taylor, TX
Rep. Kathleen Keenan, VT
Rep. Mark Young, VT

Rep. Tripp noted that he had not been present for the earlier NCOIL discussions and said that review of the issue would be especially timely in light of ongoing legal action surrounding the 1999 *Avery vs. State Farm* case. That case, he said, had concluded that use of aftermarket crash parts violated insurance contracts by not returning damaged vehicles to their pre-accident conditions. He added, and several Committee members agreed, that the possibility of increasing competition and lowering consumer costs made review of the issue worthwhile.

Rep. Tripp made a motion to defer consideration of the proposed model act until the 2005 NCOIL Summer Meeting, at which time the Committee would hold a hearing on the matter. Rep. Young seconded the motion.

Following Committee discussion, legislators adopted the motion by unanimous voice vote. Rep. Keiser asked that parties interested in offering proposed changes to the draft model law do so in accordance with the NCOIL 30-day deadline rule for the Summer Meeting.

OTHER BUSINESS

AUTO INSURANCE BEST PRACTICES

Ms. Thorson reported that the Insurance Legislators' Foundation (ILF) Board had voted the day before to pursue an ILF study on auto insurance best practices in conjunction with the National Highway Traffic Safety Administration (NHTSA). She said the Board had expressed interest in such items as passenger restrictions for younger drivers, red light cameras, roundabouts, and black boxes, among other items.

ADJOURNMENT

There being no further business, the meeting adjourned at 11:30 a.m.