

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
SUBCOMMITTEE ON NATURAL DISASTER INSURANCE LEGISLATION
DUCK KEY, FLORIDA
NOVEMBER 20, 2008
MINUTES

The National Conference of Insurance Legislators (NCOIL) Subcommittee on Natural Disaster Insurance Legislation met at the Hawk's Cay Resort in Duck Key, Florida, on Thursday, November 20, 2008, at 9:00 a.m.

Assem. William Barclay of New York, vice chair of the Subcommittee, presided.

Other members of the Subcommittee present were:

Sen. Ralph Hudgens, GA
Sen. Robert Dearing, MS
Rep. George Keiser, ND
Assem. Joseph Morelle, NY
Sen. Keith Faber, OH

Other legislators present were:

Rep. Kurt Olson, AK	Rep. Charles Curtiss, TN
Rep. Greg Wren, AL	Sen. Steve Southerland, TN
Sen. Joseph Crisco, CT	Rep. Gini Milkey, VT
Rep. Tommy Thompson, KY	Sen. Jeffrey Kessler, WV
Sen. Carroll Leavell, NM	

Also in attendance were:

Susan Nolan, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director
Mike Humphreys, NCOIL Director of State-Federal Relations
Jordan Estey, NCOIL Director of Legislative Affairs & Education

MINUTES

Upon a motion made and seconded, the Subcommittee voted unanimously to approve the minutes of its July 10, 2008, meeting in New York City.

PENDING STATE AND FEDERAL INITIATIVES

Ed Collins of Allstate Insurance Companies overviewed state and federal natural catastrophe efforts. He predicted that Rep. Craig Eiland (TX), NCOIL past president, would introduce legislation based on an NCOIL catastrophe fund model act in response to the insurance-market fallout from Hurricane Ike. Mr. Collins said it was unlikely that other states, unless they also were hit by major natural disasters, would actively consider catastrophe fund bills in 2009.

Mr. Collins said the U.S. House of Representatives had passed the *Homeowners' Insurance Defense Act* (H.R. 3355) with bipartisan support but that the Senate had not considered the bill. He said the next House likely would pass similar legislation but that the Senate might

instead support further study of the issue, as it has in the past. He cautioneded that national catastrophe reform may take a backseat to growing economic concerns, though he did say that President-Elect Obama had issued support for H.R. 3355. Mr. Collins noted that the platform of the Democratic National Convention had endorsed a national natural catastrophe backstop and that the platform of the Republican National Convention more generally had supported a national approach.

Mr. Collins said, regarding flood insurance, that the House and Senate each had passed reform legislation but that the two chambers could not reach consensus on their bills before the flood program expired on September 30. He said Congress had extended the current program until March 6, 2009, prior to which lawmakers would revisit the issue.

In response to a question from Rep. Keiser, Mr. Collins said that financing for proposed catastrophe funds in New York and Massachusetts would be similar to the financing set forth in the NCOIL catastrophe fund model act. Dennis Burke of the Reinsurance Association of America (RAA) said the proposed financing mechanisms would be similar to that of the Florida hurricane catastrophe fund, which he added was unable to meet its obligations because, in the current economic climate, it did not have the bonding authority on which designers of the fund had counted. He said the credit crisis may impact many state programs, not just catastrophe funds.

Mr. Burke said the Senate had not considered H.R. 3355 because backers had realized they did not have enough votes for passage. Regarding federal flood bills, he said the House had supported adding wind coverage to the National Flood Insurance Program (NFIP) but that the Senate had overwhelmingly rejected the idea.

Responding to a question from Sen. Leavell, Mr. Burke discussed the Texas windpool's post-Hurricane Ike financing challenges. Responding to a question from Rep. Keiser, Mr. Burke commented that catastrophe funds are responses to political pressure and ignore private-market ability to handle disaster risk.

Scott Gilliam of Cincinnati Insurance Companies predicted that the U.S. House-passed natural catastrophe backstop would have a difficult road in the next Congress because in the current economy people would view a program like that as a bailout for insurers. He said an appropriate federal mechanism should have a "black-and-white" trigger, such as \$100 billion in insured losses, rather than a more general threshold of 1-in-100 years, for instance.

James Tuite of State Farm Insurance Companies called for a pre-funded catastrophe backstop with a high trigger, one that would allow the private market to operate. He said the time had come for NCOIL to officially support a "reasonable" backstop and to recognize that no single state could handle a major natural catastrophe.

NAIC MEGA-CATASTROPHE PLAN

Eric Nordman of the National Association of Insurance Commissioners (NAIC) described NAIC consideration of its plan as "long-running," noting that regulators were on their fourteenth draft. He said regulators had streamlined the proposal and based it on principles the NAIC adopted in 1999.

Mr. Nordman said the draft mega-catastrophe plan had three tiers. The first, he said, addressed personal responsibility and mitigation, private-market capacity, tax-deferred catastrophe reserves,

and offers of multi-peril coverage. He said the second level provided for optional state/regional catastrophe funds or, if a state chose not to develop/participate in one, for creation of a financing mechanism that would allow the state to participate in a federal backstop. Mr. Nordman said the third tier called for creation of a commission that would study establishment of a federal backstop.

Mr. Nordman added that Congressional Research Services (CRS) had recently released a report on H.R. 3355, the House-passed catastrophe backstop bill.

STATE TAX INCENTIVE INITIATIVES

Mr. Collins said, in part, that state homeowner mitigation tax incentives are important to a comprehensive catastrophe system and that states, including Florida and South Carolina, have made good progress on such initiatives. In response to a question from Assem. Barclay, Mr. Collins said Florida offers credits against state income tax when homeowners install wind-resistant shutters, for example.

Mr. Burke said the RAA supports use of tax incentives, including the relatively new South Carolina program, because they promote mitigation without encouraging new development in high-hazard areas through subsidized insurance rates. He expressed support for tax breaks when homeowners contribute to catastrophe savings accounts, and he recognized a possible need to assist low-income property owners.

Rep. Keiser asked whether insurers and state officials have ever discussed a public-private partnership in which a state might authorize a homeowner tax credit when an insurer determines that the homeowner has adopted strong mitigation efforts. Mr. Collins endorsed the idea but said the industry had not yet considered it. Rep. Keiser suggested that the Subcommittee pursue the concept.

Mr. Gilliam cautioned against expecting insurers to offer premium discounts when the companies already must offer “suppressed” rates due to a state’s political dynamics. Mr. Tuite echoed his comments, saying discounts should reflect actual exposure, and he discussed the importance of NCOIL’s 2007 building code model act.

INTERSTATE NATURAL CATASTROPHE COMPACTS

Mr. Collins said that multi-state compacts hold promise but that policymakers should delay discussing details until the federal government creates a comprehensive national system. He said a compact in the abstract would have difficulty gaining traction.

Mr. Burke drew comparisons between the mortgage credit crisis and the insurance market. He said that in the mortgage crisis, people offered loans without doing proper underwriting or offering appropriate interest rates, and that those failures ultimately led to a \$700 billion federal bailout. In the insurance arena, he said, the inability of insurers to differentiate between risks that are very subject to loss and those that are less subject also is problematic. He questioned whether society would support a federal bailout of the insurance market.

Mr. Burke said a problem with regional compacts is that they often concentrate risk, such as a compact among hurricane-prone Gulf Coast states would. He said a compact with diversified risks—one that merged Florida hurricane exposure with California earthquake peril, for instance—would be more appropriate. He said that issues of public policy concern relate to subsidies and state sovereignty.

Mr. Gilliam said that multi-state catastrophe funds would be unnecessary if all states allowed private insurers to charge risk-based rates. He said catastrophe funds are dysfunctional and that extending them throughout a region would only do more harm.

Mr. Tuite explained that policymakers and the industry had engaged in significant compact discussion following Hurricane Andrew. He said the insurmountable problem was an unwillingness of states with relatively low hurricane exposures to join with high-exposure Florida, since many believed that Florida would most benefit from the compact. Mr. Tuite said interstate compacts may have a role when Congress enacts a national backstop system.

OTHER BUSINESS

INSTITUTE FOR BUSINESS AND HOME SAFETY (IBHS) ACTIVITY

Mr. Collins said the IBHS was furthering its research and development efforts by establishing a facility to evaluate hazard-resistant building materials. He said the Institute had purchased land in South Carolina on which the organization would build the complex, and he added that it would be similar to the auto crash facility operated by the Insurance Institute for Highway Safety (IIHS).

Mr. Collins described the planned IBHS complex as “world-class,” saying it would allow researchers to gauge the impacts of hurricane-force winds and flying debris on a two-story home. He estimated that the IBHS would complete its project in two years, and he said that media outlets and the manufacturing and construction industries were interested in the effort.

Sen. Leavell described his challenges convincing homeowners’ insurers in New Mexico to give premium discounts to people in hail-prone areas who install hail-resistant roofs. He said that only one company had filed to offer such a discount.

Rep. Curtiss said, among other things, that the country had made good progress researching earthquake-resistant materials but that more testing was needed on flood and tornado mitigation. He supported Rep. Keiser’s earlier suggestion in favor of a public-private partnership to promote tax relief and premium discounts, and he said that state responses to earthquake risk could serve as a model for addressing other disasters.

Rep. Keiser commented on the Subcommittee’s future. He said he strongly supported maintaining the group as a separate entity, rather than folding it into the Property-Casualty Insurance Committee, because the Subcommittee had already helped advance building codes and land-use policy but still needed to address catastrophe financing. He recommended that the Subcommittee adopt specific charges related to considering public-private tax incentive collaboration, as well as appropriate structures and triggers for a national catastrophe backstop.

Assem. Barclay agreed, and there was general Subcommittee support for Rep. Keiser’s suggestion.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:45 a.m.