

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
PROPERTY-CASUALTY INSURANCE COMMITTEE
WASHINGTON, DC
MARCH 1, 2009
MINUTES

The National Conference of Insurance Legislators (NCOIL) Property-Casualty Insurance Committee met at the Hyatt Regency Washington on Capitol Hill in Washington, DC, on Sunday, March 1, 2009, at 8:00 a.m.

Rep. Charles Curtiss of Tennessee, chair of the Committee, presided.

Other members of the Committee present were:

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| Rep. Greg Wren, AL | Assem. Nancy Calhoun, NY |
| Sen. Ralph Hudgens, GA | Sen. William J. Larkin, Jr., NY |
| Rep. Ron Crimm, KY | Sen. Jake Corman, PA |
| Rep. Charles Kleckley, LA | Rep. Brian Kennedy, RI |
| Rep. George Keiser, ND | Sen. David Bates, RI |

Other legislators present were:

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| Sen. William Haine, IL | Sen. Dan Dodd, OH |
| Del. Aisha Braveboy, MD | Rep. Tony Melio, PA |
| Rep. Barb Byrum, MI | Sen. Frank Deem, WV |
| Sen. James Seward, NY | |

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

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its November 21, 2008, meeting in Duck Key, Florida.

SUBCOMMITTEE ON NATURAL DISASTER INSURANCE LEGISLATION

Rep. Kleckley, co-vice chair of the Subcommittee, said the Subcommittee had heard reports on development of a National Association of Insurance Commissioners' (NAIC) catastrophe rating model; the financial crisis' impact on catastrophe financing; and pending state initiatives. He noted that a representative of the U.S. House Financial Services Committee had discussed federal activity related to catastrophe coverage. Rep. Kleckley said that the Subcommittee had received a presentation on South Carolina tax incentive reforms and had chosen to further pursue the issue, and that legislators had expressed interest in developing a catastrophe fund proposal.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP)

Ed Pasterick of the Federal Emergency Management Agency (FEMA) discussed efforts to reform the NFIP and said Congress had recently extended the program in lieu of agreeing on appropriate change. He said FEMA opposed adding wind coverage to the NFIP, as some in Congress proposed, because private wind coverage was already available and because the NFIP would ultimately become a residual market for wind insurance. He added that the federal government would be unable to offer wind coverage at a cheaper price than the private market.

Mr. Pasterick overviewed the NFIP's financial condition, noting that the program still owed Treasury approximately \$19 billion. He then discussed recent recommendations by the American Bar Association (ABA) regarding state and federal legislation that would, among other things, eliminate obstacles that would prevent insurers and reinsurers from offering broad protection for wind damage and storm-surge floods.

Mr. Pasterick discussed NFIP exclusions related to basements and said FEMA was reviewing whether to begin offering additional basement coverage.

NAIC CLIMATE CHANGE DISCLOSURE PROPOSAL

Amanda Yanek of the NAIC reported that an NAIC Climate Change Task Force had recently adopted a survey, comprised of eight questions, that would evaluate insurer activity related to climate change. She said the NAIC Executive Committee would consider the proposal at an upcoming NAIC Spring Meeting. Ms. Yanek described the survey as a compromise between interested parties and said insurers would be required to report information by May 2010, using 2009 data. The filing requirements would be phased in, she said, beginning with large insurers, and the information would be made public.

Deirdre Manna of the Property Casualty Insurers Association of America (PCI) said that PCI continued to oppose the survey, despite recent revisions. Among other things, she expressed concern regarding confidentiality, the ultimate use of insurer responses, scientific uncertainty related to climate change, and the need for NAIC involvement in the issue.

Neil Alldredge of the National Association of Mutual Insurance Companies (NAMIC) echoed Ms. Manna's opposition and commented on specific survey questions.

Commissioner Susan Voss (IA) said the NAIC had discussed climate change for many years and that reinsurers are deeply invested in the issue because they are the ultimate financial backstops for extreme weather events. She said it was prudent for regulators to consider whether insurers are prepared.

Rep. Keiser advised the NAIC to offer insurers various climate change scenarios and ask the companies how they would respond to each of them, rather than have the companies themselves define climate change events. Commissioner Voss indicated support for the idea and then discussed the relevance of modeling.

CROP INSURANCE ADJUSTER LICENSING

Commissioner Voss overviewed NAIC efforts to establish uniform loss adjuster licensing requirements. She said regulators had surveyed all states regarding their licensing standards and were working with state departments to streamline the state systems and make them consistent.

Craig Witt of the Risk Management Agency (RMA) of the United States Department of Agriculture (USDA) said that 16 private companies have signed standard reinsurance agreements (SRAs) with the Federal Crop Insurance Corporation (FCIC) in order to sell multi-peril crop insurance. He explained that the RMA operates the crop insurance program on behalf of the FCIC.

Mr. Witt said that in 2005 RMA negotiated a new SRA that required crop insurance adjusters to be licensed by a state if that state required licensing. Since then, he said, RMA had developed concerns regarding state standards. He said, for instance, that some jurisdictions require crop adjusters to pass standard property-casualty insurance exams even though the vast majority of questions on those exams are unrelated to crop coverage.

Mr. Witt described RMA collaboration with the NAIC and said, among other things, that the NAIC had developed model guidance requiring crop-specific proficiency exams. Regarding targeted RMA activity, he said the agency had drafted an amendment to the SRA that would replace mandated state licensing with a new RMA certification.

Mr. Witt discussed how the amendment would affect state systems already in place. He said that RMA expected all crop insurers to agree to the SRA certification amendment and then discussed timeframes for implementation.

Robert Parkerson of National Crop Insurance Services (NCIS) said, in response to a question from Assem. Calhoun regarding the size of crop losses, that private crop insurers had paid out \$6.7 billion within recent months. He said that farmers had purchased 1.2 million policies in 2008. Rep. Curtiss noted that farmers must purchase crop insurance in order to receive federal aid should a disaster strike.

Mr. Parkerson discussed the history of NCIS and said it is similar to the Insurance Services Organization (ISO). He said, among other things, that in 2008 insurers wrote \$10 billion of crop insurance premiums and had insured approximately 270 million acres. He explained the overlap of state versus federal crop insurance regulation; current crop adjuster training requirements; and development and implementation of an NCIS Crop Adjuster Proficiency Program (CAPP). He said CAPP would satisfy federal interest in uniform, appropriate adjuster training.

Mr. Parkerson said CAPP would give adjusters who pass the proficiency program cards that acknowledge the certification. He encouraged states to recognize CAPP training and said states accepting CAPP could charge certification fees if they so chose.

Rep. Curtiss and Mr. Parkerson discussed the percentage of loss that farmers must sustain in order to receive crop insurance payment.

Rep. Curtiss said that NCOIL action to promote uniform adjuster licensing and proficiency would benefit consumers throughout the country and added that establishing uniformity was not “rocket science.” He said the Committee should consider a proposal on the issue.

AUTO INSURANCE AIRBAG FRAUD

Howard Goldblatt of the Coalition Against Insurance Fraud overviewed schemes related to airbag fraud, including the black-market purchase of airbags and instances in which an auto body shop charges an insurer full price for an airbag when the shop actually uses a cheaper, fraudently obtained product.

Mr. Goldblatt said that auto body repairers also may try to defraud an insurer by removing an undeployed airbag and temporarily replacing it with one that has already deployed. In such cases, he said, the insurer unnecessarily pays for a new airbag—and the body shop pockets the money.

Mr. Goldblatt discussed behavior in which auto recyclers, used car dealers, and/or auto body shops fake an airbag repair. He said they may fill a deployed airbag with beer cans or other refuse, or they may purposely install the wrong type of airbag (one designed for a Mini Cooper, for instance, rather than a Cadillac).

Mr. Goldblatt addressed state efforts to address airbag fraud. He said that New York and Colorado initiatives target auto body repair shops and that New York additionally addresses auto accident reports. Some states, he said, make airbag fraud a misdemeanor while others view it as a felony. Mr. Goldblatt noted that Vermont and Florida raise the felony to a higher level if someone dies as a result of the fraud. He suggested that a legislative “hybrid approach” could help states address the issue.

The Committee discussed items including, among others, an inability to reuse a deployed airbag, the impact of NCOIL action on already-existing state fraud laws, and the possible use of vehicle identification numbers (VIN).

Upon a motion made by Rep. Kennedy and seconded, the Committee determined via unanimous voice vote to pursue consideration of an airbag fraud model law.

OTHER BUSINESS

FTC INSURANCE SCORING ACTIVITY

Ms. Thorson overviewed recent Federal Trade Commission (FTC) activity regarding use of insurance scores in homeowners’ insurance. She said, in part, that the FTC had recently subpoenaed the nine largest homeowners’ insurers, that current FTC efforts built upon a 2007 FTC report on auto coverage, and that Congress had expressed concern over insurance scores’ alleged unfair discrimination against minorities and low-income consumers.

James Tuite of State Farm Insurance Companies said that the FTC had subpoenaed his company and that insurers were troubled by some of the information the agency had requested, since it included proprietary consumer data. Mr. Tuite also said that insurers questioned whether the FTC had authority to issue the subpoenas.

MEDICARE SECONDARY PAYER REQUIREMENTS

Julie Gackenbach of Confrere Strategies said that a recent federal law extending the State Children’s Health Insurance Program (SCHIP) also required that all payers of medical care, including property-casualty insurers, must now electronically report information related to medical claims made by Medicare enrollees or potentially Medicare-eligible individuals. She said the reporting deadline for

submitting quarterly data was July 1 but that insurers would have difficulty meeting the deadline unless granted an extension.

Ms. Gackenbach said Medicare not only wanted insurers to report on claims that the companies have coming in, but also wanted them to report on claims filed since 1980 and on any claims that Medicare deems “open,” in which a consumer might again file against the insurer. She said Medicare wanted information that p-c insurers do not have, including claimant Social Security numbers and attorney taxpayer identification numbers.

Ms. Gackenbach described insurer efforts to comply as costly and labor intensive, and she encouraged legislator support toward extending the deadline and revising the information required.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:00 a.m.