

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
PROPERTY-CASUALTY INSURANCE COMMITTEE
SPECIAL MEETING ON INSURANCE BINDERS/CERTIFICATES OF INSURANCE
BURLINGTON, VERMONT
JULY 14, 2012
MINUTES

The National Conference of Insurance Legislators (NCOIL) Property-Casualty Insurance Committee met at the Hilton Burlington in Burlington, Vermont, on Saturday, July 14, 2012, at 10:00 a.m.

Rep. Steve Riggs of Kentucky, chair of the Committee, presided.

Other members of the Committee present were:

Rep. Greg Wren, AL	Sen. Neil Breslin, NY
Rep. Barry Hyde, AR	Sen. William Larkin, Jr., NY
Sen. Travis Holdman, IN	Sen. Kevin Bacon, OH
Rep. Matt Lehman, IN	Rep. Jay Hottinger, OH
Rep. Ron Crimm, KY	Rep. Michael Stinziano, OH
Rep. Robert Damron, KY	Rep. Brian Kennedy, RI
Sen. Dan Morrish, LA	Rep. Charles Curtiss, TN
Rep. Don Flanders, NH	Rep. Bill Botzow, VT
Sen. Carroll Leavell, NM	Rep. Warren Kitzmiller, VT

Other legislators present were:

Rep. Isaac Choy, HI	Rep. John Picchiotti, ME
Rep. Dawn Pettengill, IA	Sen. David O'Connell, ND
Rep. Greg Cromer, LA	Sen. Mike Hall, WV
Rep. Kirk Talbot, LA	

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, Nolan Associates, NCOIL Deputy Executive Director
Michael Keegan, Nolan Associates, NCOIL Director of Legislative Affairs–DC
Michael Carroll, Nolan Associates, NCOIL Director of Legislative Affairs

Interested parties who offered comments included:

Agents:

Wes Bissett, Independent Insurance Agents & Brokers of America (IIABA)
David Eppstein, National Association of Professional Insurance Agents (PIA)

Lenders:

Jose Becquer, Wells Fargo, representing The Lenders' Coalition
Catherine Rodewald, Prudential Asset Resources
Deborah Wright, Prudential Mortgage Capital Company

P-C Insurers:

Eric Goldberg, American Insurance Association (AIA)
Chris Hackett, Property Casualty Insurers Association of America (PCI)
Joe Thesing, National Association of Mutual Insurance Companies (NAMIC)

Standards Development Organization:

Ann Henstrand, Association for Cooperative Operations Research and Development (ACORD)

PROPOSED INSURANCE BINDER MODEL ACT

Ms. Thorson reported that a [draft Model Act Regarding Use of Insurance Binders as Evidence of Commercial Insurance Coverage](#), sponsored by Rep. Lehman, attempted to respond to lender concerns with a proposed *Certificates of Insurance Model Act*. She said that legislators on recent conference calls had decided to address such concerns via insurance binder reform before moving forward with a [proposed certificates model](#). She explained that the current certificates of insurance proposal:

- reflected participation of certain p-c industry organizations
- tried to stem fraud and misuse of forms used to prove policyholder insurance to third parties
- replaced an original version set aside by the Committee on a May 11 call

Rep. Lehman said that certificates of insurance are informational documents, while insurance binders grant the rights and conditions of a policy. He said that the proposed binder model would eliminate binder expiration dates—keeping a binder in force until a policy is issued or cancelled by an insurer—and would establish that binders are legally binding proof of coverage to be accepted by lenders.

GENERAL COMMENTS

Agent representatives said, among other things, that:

- It is important to clarify in law that binders do not expire until a policy is issued or cancelled by the insurer.

A lender representative said, among other things, that:

- Legislators should take care to prevent certificates and binder laws from conflicting.
- Legislators should focus on when an insurer delivers a policy, rather than when it is issued.
- A binder needs to be more than a general overview of coverage.
- A lender should not be required to accept a binder in lieu of a policy.

Property-casualty insurer representatives said, among other things, that:

- State binder law is well-established, so an NCOIL model is not necessary.
- There are certain insurers that support binder expiration dates.

SECTION-BY-SECTION REVIEW OF BINDER MODEL/AMENDMENTS

Ms. Thorson noted that, because the [model markup](#) was submitted after the 30-day deadline, the Committee as per NCOIL bylaws needed to vote by two-thirds to waive the 30-day rule in order to consider the model and to hold other such votes to adopt proposed amendments. The Committee voted unanimously to waive the rule.

Ms. Thorson said the markup showed two rounds of proposed amendments, sponsored for discussion by Rep. Lehman—revisions submitted by a June 21 deadline and others by a July 6 deadline.

SECTION 3 DEFINITIONS

Ms. Thorson said that IIABA, PIA, and the Mortgage Bankers Association (MBA) had submitted amendments to the Section 3(A) definition of “insurance binder.” She reported that legislators on a June 27 call had tentatively agreed to accept proposed amendments that would 1) clarify that a binder is a “temporary contract of insurance” and 2) narrow the model’s scope to “commercial real estate” binders.

Rep. Lehman, speaking to possibly narrowing the model's scope, suggested focusing on "commercial property" rather than "commercial real estate," in order to be consistent with an ACORD commercial property binder form.

The Committee and interested parties then discussed:

- whether narrowing the model's scope would be appropriate
- whether a binder should be expanded to include more specific data, such as limits and sub-limits
- whether to specify that a binder is issued prior to an insurance policy

The Committee unanimously approved the following revised definition of "insurance binder":

- A. "Insurance binder" means a written temporary contract of insurance authorized by an insurer issued prior to the insurance policy that includes:
1. the name and address of the insured and any additional named insureds, mortgagees, or lienholders
 2. a description of the property insured
 3. a description of the nature and amount of coverage that shall be deemed to include the terms of the insurance policy except as conspicuously noted on the binder
 4. the identity of the insurer and of the authorized representative executing the binder
 5. the effective date of coverage
 6. the binder number or the policy number where applicable to a policy extension

Ms. Henstrand of ACORD said that a rough draft of an "ACORD 875" form she had developed showed what a more detailed binder might look like. She said that 875 would combine an ACORD 28 evidence of insurance document with an ACORD 75 commercial property binder. She stressed, however, that ACORD members need to adopt any new ACORD form.

Ms. Thorson noted that the MBA had proposed adding an "evidence of insurance" definition to Section 3 but had withdrawn the amendment. The Committee unanimously agreed not to include an "evidence of insurance" definition in the model.

SECTION 4 INSURER OBLIGATIONS

Ms. Thorson said that Section 4(A) would obligate an insurer to provide coverage according to the terms of a binder, until the insurer either issues the policy or cancels the binder. She reported that IIABA, MBA, and PIA each had submitted proposed amendments.

The Committee and interested parties then discussed:

- how to apply Section 4(A) to binders for all types of insurance
- whether Section 4(A) should reference the delivery, rather than the issuance, of a policy
- the gap between when a policy is issued and when/how a lender might receive it
- whether to mandate that insurers provide copies of binders to lenders, in addition to insureds

The Committee unanimously approved the following revised version of Section 4(A):

- A. An insurer that provides an insurance binder is obligated to provide the coverage according to the terms of such binder until the insurer issues the insurance policy or cancels the binder.

Ms. Thorson recognized that the Committee had deleted the following sentence from the original version of Section 4(A): "Insurance binders do not expire before the policy is issued." She said the amendment had been offered by IIABA.

ADJOURNMENT

Ms. Thorson said that the Committee, due to time constraints, would continue its review of the draft binder model on July 15. The July 14 meeting adjourned at 11:10 a.m.