



# NCOILETTER

September 2005

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## NATIONAL CONFERENCE OF INSURANCE LEGISLATORS

### Preserving State Insurance Regulation...

- By interacting with Congress on issues of critical importance to insurance public policy
- By educating state lawmakers on the solutions to their insurance-market crises
- By fostering relationships between state legislators
- By asserting the primacy of state insurance regulation under the McCarran-Ferguson Act of 1945

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## NCOIL TO EXAMINE HURRICANE KATRINA IMPACTS, HOLD JOINT NATURAL DISASTER/TERRORISM MEETING

In response to the catastrophic losses wrought by Hurricane Katrina, NCOIL President Rep. Craig Eiland (TX-Galveston) has announced a revised agenda for the November 17 through 20 NCOIL Annual Meeting in San Diego, California, in order to focus on the wide-ranging impacts of the storm.

According to Rep. Eiland, "Never has such a natural disaster so devastated the people and economy of this country, leading to losses that affect so many policyholders and lines of both domestic and global insurance. We should learn from what has happened in order to better prepare for something of such magnitude."

In addition to their previously scheduled items, NCOIL committees will examine the ramifications of Katrina on individual insurance lines—including business interruption, environmental liability, homeowners, auto, health, life, and workers' compensation—both in this

country and abroad.

A special panel, entitled *Recovering from Katrina: Exploring the Profound Consequences*, will address, among other things, forecasts for worldwide insurance lines and for the National Flood Insurance Program (NFIP); the impact on federal preemption initiatives, including the SMART Act and optional federal charters; mobilizing Congress to enact natural disaster insurance legislation; issues related to Katrina-inspired litigation; and what states can learn in order to prepare for the future.

NCOIL also will convene a special joint meeting of its Subcommittee on Natural Disaster Insurance Legislation and Task Force on Terrorism. Integral to the discussion will be investigating options for federal natural disaster insurance legislation, including incorporating natural catastrophe risk into either the Terrorism Risk Insurance Program (TRIP) or the NFIP; establishing some

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## INSURERS TO CONGRESS: MARKET NEEDS PUBLIC-PRIVATE CATASTROPHE PROGRAM

At a September 14 roundtable of the U.S. House Financial Services Committee, insurance industry leaders urged Congress to establish a public-private partnership to cover losses from catastrophic natural disasters. This, lobbyists said, would help ensure that companies could manage mega-catastrophes in the future.

Acknowledging that industry reserves are adequate to handle damage from Hurricane Katrina—likely to be the most destructive disaster in U.S. history—the group said that the scale of the hurricane's devastation demonstrated a need to broadly rethink the

way that the industry copes with natural events.

Michael McCabe, a senior vice president and chief legal officer for Allstate, supported a catastrophe mechanism that would incorporate both natural and man-made disasters, ostensibly based on the soon-to-expire Terrorism Risk Insurance Program (TRIP). Speaking before the Subcommittee on Capital Markets, Insurance, and Government-Sponsored Enterprises, McCabe described Allstate as an "ardent advocate" of such a plan, which he said could be crafted based on input from industry, the federal government, and state catastrophe

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## INSURERS

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programs.

David Daniel, representing the Independent Insurance Agents and Brokers of America (IIABA), offered his group’s endorsement of a partnership. Specifically, Daniel said, the Big I supports H.R. 846, the Homeowners’ Insurance Availability Act, which would establish a system whereby the federal government would auction off reinsurance contracts on a region-by-region basis. The bill, sponsored by Rep. Ginny Brown-Waite (R-FL), follows similar legislation introduced over the last several years that also has failed to garner much congressional interest.

National Association of Professional Insurance Agents (PIA) representative Pat Borowski urged consideration of a prorated program in which state and local governments, along with all sectors of the financial services industry, would participate. She said that the aim of such a backstop would be “to provide immediate financial stability to markets in the immediate aftermath of natural disasters; to allow continued market stability; and to provide sufficient time to build back market capacity.” She said the mechanism also should fund loss mitigation projects and should provide for tax-advantaged enterprise zones in areas hardest-hit by natural disasters.

In addition to some form of reinsurance vehicle, a representative of the Council of Insurance Agents and Brokers (CIAB) pushed for government help coordinating homeowners’ and National Flood Insurance Program (NFIP) policy forms. Markham McKnight said that discrepancies between the two types of forms often leave policyholders in a lurch as public and private sectors haggle over the cause of natural disaster-related damage. He said that elements of TRIP could serve as a model for such a natural catastrophe collaboration.

The roundtable also included discussion of insurer response teams, adjuster access, and government coordination. The Subcommittee held the

meeting in order to evaluate the industry’s response thus far to Hurricane Katrina.

Risk Management Society (RMS) recently estimated that insured losses from the Gulf Coast storm could reach \$60 billion, with overall economic damage of \$125 billion. The hurricane hit Florida before moving on to Louisiana, Mississippi, and Alabama.

The hurricane season is currently in its prime, with September typically one of the most active months. The season ends November 30.

### **Allstate, Former FEMA Chief Kick Off Cat Lobbying**

Former Federal Emergency Management Agency (FEMA) Director James Lee Witt registered on September 13 to represent Allstate in the drive to create a federal natural disaster catastrophe fund. Witt, who served in the Clinton administration, will work to draft and introduce legislation that would establish a tiered system in which insurers would pay homeowners’ natural disaster claims up to a certain threshold. The state would pick up the tab from there before the federal government ultimately would step in. The plan would seem to require significant state funding, though no price tag has been released.

Witt teamed up with Allstate in early August, several weeks prior to Hurricane Katrina. Following the catastrophe, Louisiana Governor Kathleen Blanco hired Witt as an advisor to that state’s relief effort. Witt’s office has been careful to deny a conflict of interest. Allstate is the second largest homeowners’ insurer in Louisiana, following State Farm, which maintains an approximately 30 percent market share.

The former FEMA head currently operates a consulting firm specializing in disaster issues, including preparedness training and assessment. His other clients include Nextel and Los Angeles County.

## A LEGISLATOR SPEAKS: VIEW FROM GULFPORT, MISSISSIPPI

*The personal toll of Katrina touched many lives, including those of state legislators. Below, a lawmaker from Gulfport, Mississippi, offers his thoughts.*

By Sen. Billy Hewes

To call the storm catastrophic would, by most standards, be a gross understatement. The devastation defies description. Rescue workers who have been to sites around the world have commented that this destruction is worse than that seen in areas like Bosnia and the tsunami ravaged areas of India. The effect of Katrina on our coastal front is said to be the equivalent of a nuclear detonation in the vicinity of Cat Island. The devastation along the first three blocks (to the railroad tracks—and in many places, beyond) is, for the most part, utter and complete.

Where Hurricane Camille selectively destroyed homes and businesses, Katrina was indiscriminate. Structures have not merely received significant damage, they simply aren't there anymore. Slabs and foundations are all that remains of cultural and historic landmarks from Pascagoula to Waveland. The further west you go, the worse it gets. No area of Mississippi's Gulf Coast escaped notice from this storm. Many of the stately live oaks are still standing, but it's as if everything in between them has been scrubbed clean.

Grass Lawn, Beauvoir, Tullis-Toledano Manor, Shearwater Pottery, Maritime & Seafood Industry Museum and more have all been significantly damaged or destroyed along with nearly every landmark restaurant and church. Most of the grand, century-old homes gracing our front beaches are gone. In essence, the physical history of our Gulf Coast has been wiped away.

While the physical toll is staggering, we are all praying that our death toll does not rise much higher knowing that there are many bodies yet to be recovered from the debris (waste high in some areas, up to 20' in others) stretching from one end of the coast to another. We had two storms earlier this season that brushed our

area, but did not cause any significant destruction. This, combined with the local wisdom that "if it survived Hurricane Camille, it can survive anything," created a complacency that likely proved deadly for many. In the coming weeks we will learn just how many in our community have perished.

Nobody anticipated the scope and scale of this storm. Unprecedented water levels with the storm surge breaching the front beach are estimated at anywhere between 27' to 35.' For those of you familiar with central Harrison County, this surge essentially created an angry inland lake spreading from Gulfport Lake to Back Bay Biloxi north to I-10 and south near areas close to Pass Road. Waves on this inland area were said to be anywhere from 6'-10' high. We are told offshore wave heights were measured as high as 70' from trough to tip.

While we personally sustained significant damage and loss to our homes and possessions, we consider ourselves blessed. This is the general attitude of most citizens along our coast. Our friends and loved ones are accounted for. That is what is most important for all of us. As bad as our personal situation may be, one does not have to look far to find someone significantly worse off. People are literally offering the shirts off of their backs to strangers. The concern and generosity of people from across America is heartening and greatly appreciated. It is needed.

Most folks in our region are receiving food and water. So many have been displaced that housing availability is now the next crisis. Jobs and economic recovery are on the heels of that issue. Our children are scattered to the four winds being re-enrolled in schools in neighboring communities and states.

Even though it will take months if not years to recover, our Coast is coming back. Our citizens are among the most resilient in the world! Just like the motto with Camille: "Together We Rebuild," this time, God willing, it will be bigger and better than ever!

Keep us in your prayers.

***"To call the storm catastrophic would, by most standards, be a gross understatement. The devastation defies description.... The effect of Katrina on our coastal front is said to be the equivalent of a nuclear detonation...."***

### SAVE THE DATE

The NCOIL  
Annual  
Meeting

November  
17 through 20,  
2005

San Diego,  
California

## NCOIL

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### NCOILetter

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TRIP-like program for natural disasters; or creating a national or regional natural disaster catastrophe fund.

NCOIL has long asserted that Congress should leave the business of insurance regulation to the states and should, instead, focus on the Federal Emergency Management Agency (FEMA) and on natural and other national disasters.

According to Sen. Steven Geller (FL-Hallandale Beach), NCOIL immediate past president and current co-chair of the natural disaster subcommittee, "NCOIL has long urged Congress to enact natural disaster insurance legislation, having recognized that the states could not manage a one-in-100-year natural event, whether it is a hurricane, earthquake, volcano, flood, or other natural hazard. Such a mega-catastrophe anywhere in the nation could devastate insurance markets across the country."

Sen. Geller has been among the first and most vocal state officials to recognize the true danger of such a disaster and to push for investigation of innova-

tive options for federal action.

"Unfortunately," he said, "Hurricane Katrina has illustrated for all of us the far-reaching impacts that a natural event may have on our economy."

Experts predict that the hurricane will be costliest catastrophe in U.S. history. One estimate places insured losses at between \$40 and \$60 billion, though U.K. insurer Brit Insurance Holdings plc has upped the likely outcome to \$50 billion.

The overall impact on the national economy could approach \$125 billion. According to reports, few policyholders in the affected states of Louisiana, Mississippi, and Alabama carry flood insurance. Under law, federally regulated lenders must require flood insurance for properties in 100-year floodplains before issuing mortgages.

The previously scheduled Annual Meeting general session entitled *Fragmented Health Insurance System: Have States Lost Control?* will be postponed until the 2006 Spring Meeting in Fort Lauderdale, Florida.

### PRESSING PUBLIC POLICY ISSUES SLATED FOR NCOIL ANNUAL MEETING

In addition to analyzing the consequences of Hurricane Katrina, legislators at the NCOIL Annual Meeting in San Diego, California, will look at the following key issues, among others:

- federal initiatives to **preempt state insurance authority**, including optional federal charter proposals and the State Modernization and Regulatory Transparency (SMART) Act
- **insurance (credit) scoring**, featuring review of an NCOIL model law
- **terrorism insurance** and extension of TRIA
- **annuity** sales suitability
- **aftermarket crash parts**, including debate over a draft model law
- efforts to reform **workers' compensation** systems
- pharmaceutical benefit managers (**PBM**) legislation
- **physician reimbursement** and third-party health insurance plan sales
- proposed federal **interstate health insurance** sales legislation
- Sarbanes-Oxley **corporate governance**
- **finite insurance** and reinsurance transactions
- **market conduct** reform
- limited term **life insurance licensure**
- **reinsurance collateral** issues

More details are available by contacting the NCOIL National Office at 518-687-0178.