

October 11, 2023

The Honorable Edmond Jordan – Chair, Property-Casualty Committee  
The Honorable Jim Dunnigan  
National Council of Insurance Legislators  
*c/o Will Melofchik, General Counsel, [wmelofchik@ncoil.org](mailto:wmelofchik@ncoil.org)*  
2317 Route 34 S. Suite 2B  
Manasquan, NJ, 08736

**Re: Proposed Amendments to NCOIL Model State Building Code**

Dear Chairman Jordan and Representative Dunnigan:

For much of 2023, NCOIL has been engaged in discussions around resiliency of property in a time of increasing risk. This issue has also been top of mind for insurers in the face of extreme weather, escalating pressures on costs, and increases in reinsurance costs and retentions. As the industry and nation as a whole enter what may be a new era of risk, NCOIL has an opportunity to encourage action in the states to preserve property insurance markets that serve policyholders well. On behalf of the National Association of Mutual Insurance Companies (NAMIC),<sup>1</sup> we appreciate the opportunity to offer these comments suggesting a path forward for NCOIL to further this critical conversation.

The general conditions in the homeowners' insurance market are familiar but bear repeating. This year is expected to be the third straight year of underwriting losses in that market, and A.M. Best just last month revised its outlook on the market from "stable" to "negative."<sup>2</sup> Broader economic factors like inflation continue to pressure insurers from multiple directions, adding to repair costs while also impacting investments. Broadly speaking, almost no

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<sup>1</sup> NAMIC membership includes more than 1,500 member companies, including seven of the top 10 property/casualty insurers in the United States. The association supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC member companies write \$391 billion in annual premiums. Our members account for 68 percent of homeowners, 56 percent of automobile, and 31 percent of the business insurance markets. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

<sup>2</sup> See "Best's Market Segment Report: AM Best Revises Outlook on US Homeowners Insurance Segment to Negative," available at <https://news.ambest.com/newscontent.aspx?refnum=252630&altsrc=114>.



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area of the country has been immune to upward pressure on rates, and some areas have seen insurers make difficult decisions to limit their offerings to preserve their solvency and ability to pay claims. Some of these issues could be improved by addressing property resilience; all of these issues should be considered in evaluating proposals to modify insurance markets, especially with new mandates, in the face of tremendous pressures on the general availability of coverage.

Given these challenges, we appreciate the committee's emphasis on a broad suite of policy actions that would, as Representative Dunnigan described it at the Sept. 22 interim meeting, "move the needle" on mitigation and resiliency. In that spirit, we offer the following suggestions to help NCOIL find a path forward.

First, **we urge NCOIL's re-adoption of the Model State Building Code, with the important technical amendments circulated in July, at the November meeting.** A cornerstone of NAMIC's advocacy on resilience issues has been strong, up-to-date, enforced building codes, and NCOIL's existing model recognizes this role. Science has shown that strong building codes and standards, as well as appropriate land use decisions, save homes and lives. NCOIL's technical amendments and re-adoption will serve to offer state legislatures an important resource to undergird stronger resilience going forward. These amendments would also help ensure that codes remain relevant and current. While we believe there are many other worthy and related policy concepts for NCOIL to explore, development and consideration of those ideas should not be rushed and should not delay re-adoption of the building code model.

Second, we offer the following additional concepts for NCOIL models or resolutions that could be pursued in 2024 or beyond to help advance resiliency. For any potential future model act(s) that grow out of the suggestions noted below, NAMIC urges that the model(s) include a drafting note clearly conditioning its consideration on adoption of either the NCOIL model building code or an equivalent, enforced code. That drafting note would help preserve the critical linkage between building codes and these additional ideas to advance resilience.

These ideas are:

- NCOIL consideration of a model act for states to provide mitigation and resilience retrofit grants. Simply put, lack of funding is a critical barrier to improved resilience in existing housing stock. The example from Alabama shows that providing direct state funding makes a significant if not decisive impact on the extent to which retrofits are accomplished. To help advance this discussion, NAMIC would be pleased to participate in drafting model language to establish a state grant program.
- NAMIC is in the process of exploring several additional state-level funding approaches with members, such as catastrophe savings and/or mitigation savings accounts. These accounts would provide state



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income tax breaks for funds devoted either to catastrophe recovery (for example, deductible amounts, in the case of catastrophe accounts) or pre-catastrophe improvements (in the case of mitigation savings accounts). Notably, NCOIL has previously adopted a resolution<sup>3</sup> encouraging creation of such a program at the federal level; states can also authorize these accounts for state tax savings. Even for those states without state income taxes, perhaps sales tax holidays for resiliency and mitigation-related materials may provide another way to incent spending on these improvements.

- Also among the ideas that NAMIC has heard about and is considering further is the possible value of legislative language that explicitly makes it clear that insurers are not running afoul of any restrictions/requirements by opting to provide policyholders with services (such as private firefighting efforts) in the event of an emergency. It may be that, on a voluntary basis, such affirmative language could be helpful in removing potential ambiguity and expanding options when fire threatens insured homes. Similarly, NAMIC could consider further the potential value of language that would clarify that mitigation discounts may be offered, without mandating such discounts.
- NCOIL could consider adopting a resolution supporting modifications to the federal Building Resilient Infrastructure and Communities (BRIC) program that would enable more of these federal funds to be used at the state and local levels. Specific modifications were outlined in an August 31, 2023 letter to FEMA co-signed by NAMIC with 50 other groups.<sup>4</sup>

Finally, we are pleased that NCOIL's conversation has shifted from the initial proposed mitigation discount mandate to a broader, more constructive approach focused on workable solutions. We opposed mandated discounts for two very different sets of reasons. First, we believe they discourage innovation in the market and, taken alone, perpetuate the idea that the solutions to fundamental issues of wildfire risk are simple and are to be found in modifying what insurers are required to do, rather than modifying the risk itself. Similarly, imposing such a mandate now, under extremely strained market conditions, could put additional stress on the availability of coverage in high-risk areas; further, the idea that the discount itself might be actuarially supported would be of little help if the underlying rate is not. Second, as the Oklahoma example illustrates, taken alone a mandated discount may do very little to advance resilience on the ground.

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<sup>3</sup> See NCOIL Resolution in Support of HR 3989, the Disaster Savings Account Act of 2013, available at <http://33a.fce.mwp.accessdomain.com/wp-content/uploads/2016/04/07172014.pdf>.

<sup>4</sup> Letter available at <https://www.asce.org/-/media/asce-images-and-files/advocacy/documents/2023-08-31-joint-fema-bric-feedback.pdf>.



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Thank you again for the opportunity to provide these comments. NAMIC appreciates the role NCOIL is playing to make housing safer and more resilient, and we look forward to continuing to participate in this important discussion.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jon Schnautz', written in a cursive style.

Jon Schnautz  
Assistant Vice President – State Affairs  
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A handwritten signature in black ink, appearing to read 'Matthew Overturf', written in a cursive style.

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