

Comments from Cape Analytics on NCOIL Draft Model Act Regarding Insurers' Use of Aerial Images

Thank you in advance for accepting comments from Cape Analytics, Inc. ("Cape") with respect to NCOIL's draft Model Act Regarding Insurers' Use of Aerial Images ("Draft Model Act").

The Draft Model Act is of interest to Cape as we are the leading provider of property characteristic and condition data used by insurance carriers that is derived from aerial images using machine learning techniques. Cape views the use of aerial imagery by carriers to collect data concerning a property to be insured as simply an alternative method of gathering information relevant to the underwriting process. There are significant benefits underlying the use of aerial imagery in the insurance industry.

Some of these benefits are:

- reduced carrier expenses by lessening the need for on-site inspections which has a positive impact on policyholder costs;
- general public safety for gathering roof-related data, as aerial imagery eliminates much of the need for an inspector to climb on a roof;
- faster underwriting review to support a better customer quoting experience;
- easier access to accurate and updated information that may otherwise be incorrect based on third party records such as permit data (pool presence, home extensions, etc.); and
- improved risk segmentation which leads to more precise and individualized carrier decisions.

While the benefits to using aerial imagery in insurance are significant, Cape recognizes that consumers need the ability to appeal a decision and/or time to complete repairs or otherwise mitigate a risky condition. We believe that existing statutes and regulations already provide for these needs and different standards and procedures should not be put in place simply because the source of the information is imagery.

In general, Cape has concerns that the proposed Draft Model Act may create considerable confusion and potentially conflict with existing department of

insurance regulations. For example, in most jurisdictions, there are existing regulations that cover matters such as the information that must be included in a non-renewal notice, when it must be delivered (e.g. at least 60 days prior to the end of a policy period) and the requirements for consumer appeals. Fundamentally, Cape does not believe there should be special and potentially more strict procedural requirements that must be followed simply because the data was gathered from aerial imagery rather than from a physical inspection, directly from the applicant or agent, or other third party sources such as tax assessor records.

Subsection (a)

The requirement in Subsection (a), provides that a carrier must present copies of date stamped images of the property showing the specific conditions that do not meet the carrier's requirements in the non-renewal notice. This requirement does not seem warranted and is overly burdensome. Requiring the carrier to provide an image to a consumer will cause the carrier to incur additional cost and will be unnecessary where, for example, (i) the non-renewal is not based upon a property condition or characteristic relevant to the imagery; (ii) the consumer does not dispute the carrier's findings; or (iii) where the consumer may have decided to seek coverage elsewhere. It may also be the case that the reason for the non-renewal, even if related to defects detected by the imagery, can be easily resolved without imagery views. For example, if the homeowner has recently repaired or replaced their roof, they can appeal the non-renewal in accordance with the carrier's existing procedure and simply provide evidence of the repair or replacement in the form of receipts or certifications from the roofer. It may be more practical to only require a carrier to provide a copy of an image on request from the consumer within a certain number of days after the request, which is similar to how a home inspection report must currently be provided in many jurisdictions.

Regarding the image recency requirement in Subsection (a), twelve months may be too strict of a standard, particularly for rural areas where the imagery is not updated as often as imagery of urban areas. We also note that there is no stated measurement point, such as twelve months from the underwriting decision or the application date etc. The Louisiana statute regulating insurer use of aerial imagery requires that an image must have been taken no more

than 24 months of a carrier's decision to cancel or renew a homeowners policy if the insurer is relying solely on the image to identify a condition that serves as the carrier's basis for canceling or renewing the policy. This is a more workable standard. Combining the recency of the image with its use (e.g. sole reliance) allows carriers to have the flexibility to use older imagery in combination with other data, which more closely reflects many carrier's current practices.

Subsection (b)

As noted above, Subsection (b), which requires a specific review process related to aerial imagery that may overlap or be in some ways inconsistent with regulations that already exist in many, if not most, jurisdictions. Cape does not believe that there is a need for a "special" review process requirement for aerial imagery based decisions. The ability for a policyholder to provide updated information to a carrier on the state of their property from aerial imagery is not a new concept. Requiring a different review process based on the source of the information may make using aerial imagery unduly burdensome and significantly restrict its usage.

Subsection (c)

Subsection (c), which requires the disclosure of a risk score rating system, will likely necessitate the disclosure of proprietary, trade secret information of the carrier and/or the vendor. This requirement will likely severely and unreasonably limit the use of aerial imagery.

Another important counter to including this kind of requirement is that the disclosure of a proprietary risk scoring system will be unlikely to actually help any consumer. A "risk score rating system" is a broad term and could require the carrier or vendor to disclose various proprietary algorithms and decision trees to a consumer. Cape strongly believes it is much more important to give the consumer understandable and actionable information - e.g. to disclose the underlying carrier or vendor findings and the carrier's reason for its decision. For example, Cape's most current version of its roof condition rating has "reason codes" which explain why a roof was given a particular score or outcome (e.g. a severe roof score could be the result of a significantly damaged roof or the presence of a tarp.) Second, not all disqualifying underwriting findings are based on "scores". For example, an aerial image

may reveal that a diving board exists on a pool or the presence of a trampoline and a carrier may choose not to issue a policy on the property due to the increased liability risk. In that case, there is no “proprietary risk scoring system” to disclose. Finally, as noted with other sections of this Draft Model Act, many jurisdictions already have requirements that the reasons for an insurer’s decision be disclosed and there should not be a “special rule” that applies to non-renewals or denials based on aerial imagery.

Subsections (d) and (e)

Cape has similar concerns with Subsections (d) and (e) insofar as many states already have procedures in place regarding notice of non-renewal periods. These periods already essentially provide the insured with the ability to “cure” the reasons for the underwriting decision. There is no reason to treat data obtained from aerial imagery any differently than a denial for a problem detected by other means (e.g. a physical inspection or roof age). Requiring an insurer to offer a renewal policy after specific defects have been noted without undergoing re-underwriting could force a carrier to take on other (known or unknown) risks.

We appreciate your consideration of our concerns with respect to the Model Act and look forward to the upcoming NCOIL meeting.