

Draft Pending Adoption

Draft: 12/18/19

Property and Casualty Insurance (C) Committee
Austin, Texas
December 9, 2019

The Property and Casualty Insurance (C) Committee met in Austin, TX, Aug. 5, 2019. The following Committee members participated: Elizabeth Kelleher Dwyer, Chair, and Matt Gendron (RI); Scott A. White, Vice Chair, and Don Beatty (VA); Jim L. Ridling represented by Sheila Travis (AL); Andrew N. Mais and George Bradner (CT); David Altmaier (FL); Robert H. Muriel (IL); James J. Donelon represented by Warren Byrd (LA); Al Redmer Jr. and Robert Baron (MD); Marlene Caride (NJ); John G. Franchini and Anna Krylova (NM); Glen Mulready (OK); Larry Deiter (SD); Mark Afable represented by Rebecca Rebholz (WI); and James A. Dodrill represented by Gregory Elam (WV). Also participating was: Travis Grassel (IA).

1. Adopted its Nov. 18 Minutes

The Committee met Nov. 18 and took the following action: 1) adopted its Sept. 10 minutes, which included adoption of its Summer National Meeting minutes and adoption of documents related to the private flood insurance data call; 2) adopted additional documents related to the private flood insurance data call, including making the data publicly available; 3) discussed proposed blanks changes related to private flood insurance; and 4) discussed the upcoming Fall National Meeting.

Commissioner Dieter made a motion, seconded by Commissioner Caride, to adopt the Committee's Nov. 18 minutes (Attachment One). The motion passed unanimously.

2. Adopted the Reports of its Task Forces and Working Groups

Commissioner Altmaier made a motion, seconded by Mr. Byrd, to adopt the following task force and working group reports: the Casualty Actuarial and Statistical (C) Task Force; the Surplus Lines (C) Task Force; the Title Insurance (C) Task Force; the Workers' Compensation (C) Task Force; the Cannabis Insurance (C) Working Group (Attachment Two); the Catastrophe Insurance (C) Working Group (Attachment Three); the Climate Risk and Resilience (C) Working Group (Attachment Four); the Lender-Placed Insurance Model Act (C) Working Group; the Pet Insurance (C) Working Group (Attachment Five); the Terrorism Insurance Implementation (C) Working Group (Attachment Six); and the Transparency and Readability of Consumer Information (C) Working Group. The motion passed unanimously.

3. Adopted an Extension for Revisions to the Proposed Real Property Lender-Placed Insurance Model Act

Commissioner Altmaier made a motion, seconded by Commissioner Caride, to adopt an extension to the 2020 Spring National Meeting for revisions to the proposed Real Property Lender-Placed Insurance Model Act. The motion passed unanimously.

4. Adopted its 2020 Charges

Commissioner Caride made a motion, seconded by Director Dieter, to adopt the Committee's 2020 charges (Attachment Seven). The motion passed unanimously.

5. Adopted a Blanks Request Regarding Private Flood Insurance

Superintendent Dwyer said the Committee discussed during its Nov. 18 conference call proposed revisions to the annual statement to include private flood insurance data. She said the Committee has drafted a proposal to the Blanks (E) Working Group that requests: 1) a new supplement that will separate residential from commercial private flood, as well as capture standalone/endorsement and first dollar/excess policy information for private flood policies; and 2) revisions to the Credit Insurance Experience Exhibit to collect lender-placed flood coverages including a split between first dollar and excess coverages.

Superintendent Dwyer said the proposed annual statement changes would not take effect until 2021, collecting 2020 data. She noted that states are currently in the process of issuing a data call that will collect 2018 private flood data early next year and 2019 data later in 2020.

Commissioner Mais made a motion, seconded by Commissioner Altmaier, to adopt the blanks request related to private flood insurance (Attachment Eight). The motion passed unanimously.

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6. Adopted Considerations for State Insurance Regulators in Building the Private Flood Insurance Market

Mr. Bradner said a drafting group established by the Catastrophe Insurance (C) Working Group began working last year on a document to include strategies to encourage the development of the private flood insurance market. He said the drafting group sent its draft to the Catastrophe Insurance (C) Working Group on July 18, and the Working Group received comments through Aug. 22. He said changes were made to the document to reflect the comments received. He said comments were also received from the Reinsurance Association of America (RAA) on Dec. 4 and from the National Association of Mutual Insurance Companies (NAMIC) on Dec. 7.

Mr. Bradner said the document recognizes that the Property and Casualty Insurance (C) Committee has already begun to take steps to enhance the collection of private flood insurance data, including collecting more granular data through the annual statement and the Credit Insurance Experience Exhibit, as well as from the surplus lines market through the Surplus Lines (C) Working Group. He said the document also recognizes that a private flood insurance line will be implemented for the Market Conduct Annual Statement (MCAS). The document presents other considerations for the Property and Casualty Insurance (C) Committee, including:

- Considering ways to incorporate a conforming conditions clause in the form approval process.
- Referring state law conflicts relating to statute of limitations and cancellation/renewal provisions to the Government Relations (EX) Leadership Council to resolve at the federal level.

Mr. Bradner said the majority of the document provides state insurance regulators with concrete actions that can be or have been taken to assist with the development of the burgeoning private insurance market for residential flood insurance. He said the actions are split into several categories, including: 1) legislative and regulatory changes such as supporting private flood insurance legislation and products and tailoring rate and form requirements; 2) consumer information, such as consumer outreach and collecting residential private flood insurance data; and 3) agent and lender actions, such as implementing specific continuing education (CE) requirements for producers and conducting agent and lender education.

Mr. Bradner said the document also includes an appendix that would be more valuable with the addition of more state examples of actions states have taken. He recommended the Committee make the appendix a living document that can be updated on an ongoing basis.

Aaron Brandenburg (NAIC) said RAA had suggested adding the following paragraph to page 19 of the document:

To avoid unintended consequences policymakers interested in facilitating a private flood insurance market should familiarize themselves with the requirements for residential customers with a federally backed mortgage to purchase flood insurance coverage and with the existing private insurance markets that provide coverage for flood damage, including coverage provided under: (a) commercial policies, (b) residential policies providing coverage in excess of required flood insurance coverage limits, (c) residential policies for those not mandated to purchase flood insurance, and (d) comprehensive auto policies. With such knowledge, legislative and regulatory changes can be tailored to accomplish the policy objectives without adversely impacting existing flood insurance markets.

Ms. Nelson asked if the word “policies” in “comprehensive auto policies” should read “coverages.” Dennis Burke (RAA) agreed with this change.

Mr. Brandenburg said NAMIC suggested adding language to page 21 to read:

In Florida, the statute requires a 10-day cancellation for non-payment of premium. In Florida, to comply with the flood statute as other than Flexible or Supplement flood insurance, the insurer would have to give at least 45 days.

Commissioner Altmaier said he does not have a problem with this change. Mr. Bradner suggested the word “notice” be added after the phrase “at least 45 days.”

Mr. Brandenburg said RAA recommended moving the placement of a paragraph on page 22 and including a sentence:

As a result, any flood insurance policy covering such properties is not required to be as broad as the NFIP policy.

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Mr. Brandenburg said each of these changes is reflected in the current document before the Committee. Mr. Bradner made a motion, seconded by Commissioner Caride, to accept the edits recommended by RAA and NAMIC, including the additional edits from Ms. Nelson and Mr. Bradner. The motion was adopted unanimously.

Mr. Bradner made a motion, seconded by Commissioner Caride, to adopt the newly revised *Considerations for State Insurance Regulators in Building the Private Flood Insurance Market* (Attachment Nine) and keep the Appendix as a living document that can be updated with state activities. The motion passed unanimously.

7. Heard a Presentation from SBP on the Work it Does to Promote Resiliency and Mitigation Among Homeowners Pre- and Post-Disaster

Deirdre Manna (Zurich) said Zurich recognizes that flooding affects more people than any other disaster. She said in 2013, Zurich started a flood resilience program to link academic insights to humanitarian efforts and Zurich's expertise. She said Zurich creates post-event reviews to shift the focus from post-disaster response to community resilience. She said \$1 spent in prevention can save \$5 in future losses. She said Zurich has conducted 16 post-event catastrophe reviews. In 2020, Zurich will launch a review of the 2017–2018 California wildfires. Ms. Manna said Zurich has collaborated with SBP in educating communities about disasters.

Mark Smith (SBP) explained SBP is a nonprofit founded in St. Bernard Parish, LA, after Hurricane Katrina. SBP has since built 18 homes in eight states and has operations in those states plus Puerto Rico and the Bahamas. He said the best way to help families is to increase resiliency before disasters and improve preparedness.

Mr. Smith said SBP recognizes that disaster survivors have breaking points determined by the amount of time recovery takes, the predictability of the recovery, and the vertical and horizontal resilience of each survivor. He said SBP's mission is to prevent survivors from reaching their breaking point by shrinking the time between disaster and recovery. Mr. Smith said SBP strives to improve preparedness and provide tools before a disaster occurs. He said SBP's strategic interventions have to do with building, sharing, preparing, advising and advocating. He said SBP prepares communities by identifying communities at high risk and advises governments about the best use of resources.

Mr. Smith said SBP partners with corporations such as Zurich to obtain additional resources in rebuilding homes. These corporate partnerships allow for the creation of disaster resilience and recovery labs, eLearning modules, government advisory and advocacy activities, and assisting communities with improving their Community Rating System score which can then improve the National Flood Insurance Program (NFIP) rates they receive.

Mr. Smith said SBP would like to partner with the NAIC before disasters to help communities better understand and mitigate risk ahead of disasters and partner after disasters to leverage SBP's turnkey educational and advocacy materials to help survivors recover more quickly after disasters.

Superintendent Dwyer said Director Raymond G. Farmer (SC) recommended SBP make this presentation, and South Carolina has partnered with SBP. Mr. Bradner said that he co-chairs a statewide long-term recovery task force that helps communities to prepare and recover from disasters and that he would like to work with SBP in identifying resiliency needs. He said his group would like to work with SBP in helping communities improve their Community Rating System scores. Mr. Smith said SBP often works with nonprofits in recovery programs. Superintendent Dwyer said the NAIC's Northeastern Zone works on these issues, and she asked Mr. Bradner to leverage SBP in the work the Zone conducts.

8. Heard a Presentation Regarding Underinsurance Issues from the APCIA and NAMIC

Superintendent Dwyer reminded the Committee that Amy Bach (United Policyholders) spoke to the Committee during the Summer National Meeting about the problem of underinsurance. Dave Snyder (American Property Casualty Insurance Association—APCIA) said he believes the top unresolved property/casualty (P/C) insurance issue is natural catastrophe risk and resiliency. He commended the NAIC for making this a top priority. He agreed with many of Ms. Bach's points, including that more Americans need to be protected from natural disasters and that many property owners do not have enough coverage on their home. He said 75% of the losses from Hurricane Harvey were uninsured. He stressed property valuation is the responsibility of the property owner working with the insurer. He said the most significant protection gap is with flood damage.

Mr. Snyder said property valuation is difficult and is not the same as market value. He said actual cash value is the standard, but most policies are replacement cost. Insurers often offer extended replacement cost that provides up to an additional 25% in

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most cases to help address the underinsurance issues. He said this does not help if there are additions such as renovations or significant changes to the home. He said revised building codes also add to reconstruction costs.

Mr. Snyder said most insurers include inflation guard coverage to address increasing materials and labor costs. He said many insurers ask policyholders annually about substantial structural changes. Insurers also conduct insurance-to-value campaigns. He said insurers and policyholders need to work together to establish the correct value. He said balance is the key. Too much coverage creates a moral hazard, and too little coverage creates underinsurance issues.

Mr. Snyder said flooding is the most common disaster in the U.S. and can occur almost anywhere in the country. He said the NFIP has just more than 5 million policyholders. He noted CoreLogic estimates that 29 million homes have moderate to severe risk of flood loss. He said the biggest question for agents is still whether consumers have to buy flood insurance. People think of it as a binary decision; they are either required to purchase flood insurance or they are not. He said it should be stressed that where it rains, it can flood.

Mr. Snyder said the number of nonrenewals has crept up in areas with wildfire losses. He said this happens with other perils until the market is able to recover. He said development is often allowed where it should not be.

In terms of what the industry is doing, Mr. Snyder said the industry is supportive of NFIP Risk Rating 2.0, modernizing policy language, modernizing flood mapping, and the Federal Emergency Management Agency's (FEMA) moonshot goal of doubling flood insurance as well as consumer education. He said 98% of all counties have had a flooding event. He said APCIA has developed numerous educational materials and state and local mitigation programs.

Mr. Snyder stressed state insurance regulators should allow innovations such as revising anti-rebating laws and allowing parametric insurance. He said state insurance regulators should continue to help to develop the private flood insurance market, such as promoting ideas within the *Considerations for State Insurance Regulators in Building the Private Flood Insurance Market*.

Cate Paolino (NAMIC) said several inputs can affect underinsurance, including market changes, input challenges and post-catastrophe surge. She said insurers and agents should provide communications regarding how to actively manage risk, including available products such as inflation guard protection options. She said as people improve their property, they need to share that information with insurers. Insurers often ask for additional information with a supplemental or renewal questionnaire. She said some individuals elect not to insure-to-value.

Ms. Paolino said rebuilding often costs more after a large catastrophe due to increases in labor, equipment and supplies. This demand surge can sometimes be 30% or higher. She said approximately 14 states have laws that prohibit policy limits from exceeding replaced cost estimates. She noted that over insurance should be avoided, as well as underinsurance.

Ms. Paolino said the industry wishes to work with state insurance regulators in encouraging the growth of the private flood insurance market. She said flood should be distinguished from property with respect to certain property regulations, such as weather-related loss limitations. She said the Build Strong Coalition was formed in 2011 to bring together a diverse group to respond to an increasing number of severe disasters. She said a primary focus of this group has been support of the federal Disaster Recovery Reform Act, which shifts the federal government approach to disaster recovery by incentivizing states to implement resiliency measures before natural disasters. She noted the Act provides monies to states and communities for pre-disaster mitigation measure. She said she would like to see state insurance regulators weigh in on the importance of mitigation efforts, especially improving building codes. NAMIC works with state legislators and others in promoting disaster mitigation and resiliency through a resiliency week.

Mr. Bradner said the International Residential Code (IRC) has upcoming building code changes that lower wind speed requirements because the code looks at historical averages of wind speeds. He is concerned that climate changes are not being considered. Mr. Snyder said this is a source of concern and that there is opportunity for state insurance regulators to advise others in state government about building codes and their effectiveness. He said the insurance industry also needs to provide information and advocacy. He said new houses often are not built to withstand fire. Mr. Bradner said he has worked with the construction industry on building codes, but state differences and lack of data make it difficult to get consensus. He said data is needed from the insurance industry to understand the effectiveness of mitigation steps.

Mr. Byrd said often repairs cost more to get up to code and that the insurer should have an incentive for the policyholder to take these steps to become a better risk. He wondered whether the insurer would pay some or all of these increased costs. Mr. Snyder said he would follow up on this issue. Commissioner Mulready said Oklahoma recently experienced record

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flooding. He said maps have changed in areas where banks communicate with the homeowners that flood insurance is no longer required. He asked if the insurance industry had worked with the American Bankers Association (ABA) on educating consumers about flood risks. Mr. Snyder said consumers often only consider whether the bank requires them to carry flood coverage. He said this decision-making process needs to change and that it will take work. He said research into communicating risks needs to continue. He said the insurance industry is trying to communicate these risks to policyholders. Superintendent Dwyer said she also supervises banks in Rhode Island and said there is a lack of understanding by lenders on floods, earthquakes and other perils. She said banks say they are at a competitive disadvantage if they encourage the purchase of additional insurance. Mr. Grassel said the key is pushing resiliency and mitigation efforts.

Superintendent Dwyer said she finds flood insurance to be difficult to buy if one is not required to purchase it. Ms. Paolino said she is hopeful the growth of the private flood insurance market will help in the purchase process. Tom Glassic (Wright National Flood Insurance Company) said it is becoming easier to purchase flood insurance, such as by going to the floodsmart.gov website. He said Write Your Own (WYO) companies and FEMA are working to make the flood policy look like other policies.

Mr. Bradner said states should think about how they can work more closely with the construction industry on mitigation steps, including sharing research conducted by the Insurance Institute for Business & Home Safety (IBHS). He said states should also work with the construction sector on obtaining data on mitigation efforts.

Superintendent Dwyer said she will ask California to speak at the Spring National Meeting to discuss its experience with wildfire risks.

9. Heard an Update on Crop Insurance

Dave Miller (U.S. Department of Agriculture—USDA) said the federal crop insurance program was established in 1938. He said the private sector delivers the program through 14 insurance companies through sales, loss adjustment and underwriting. He said the standard reinsurance agreement is provided through the USDA.

Mr. Miller said the USDA works with states to share information about the market behavior and financial stability of the insurers. He said the USDA has worked with individual states recently with companies cancelling policies and leaving gaps in the marketplace. USDA's compliance office has worked closely with state insurance regulators to deal with sales and rebating issues. He said the federal *Crop Insurance Handbook* was last updated in 2013 and should be looked at again based on new federal legislation. He also noted the NAIC's federal relations staff has worked with the USDA as federal legislation arises. He said state data is available on the USDA website.

Tom Zacharias (National Crop Insurance Services—NCIS) said NCIS provides a unique suite of services to the crop insurance industry ranging from actuarial and analytical support to the development of crop loss adjustment standards and industry-wide training for both company staff and industry loss adjusters. He said NCIS is the only entity that fully supports both the state-regulated and federally regulated lines of the crop insurance business.

Dean Strasser (NCIS) noted the federal crop insurance program requires that adjusters be licensed in the state in which they service claims in order to be certified under the Standard Reinsurance Agreement (SRA) between the USDA Risk Management Agency (RMA) and the Approved Insurance Providers (AIPs). However, if a state's licensing requirements are not crop insurance-specific or the state has no loss adjuster licensing requirements, RMA requires completion of a proficiency program to be certified. (Completing the Crop Adjuster Proficiency Program [CAPP] satisfies this requirement.) Several states that have crop adjuster license requirements do recognize CAPP as meeting their exam requirements for licensure.

Mr. Zacharias said NCIS files loss costs with states. He said crop-hail insurance has about \$1 billion in premium, while federal crop insurance premiums are about \$10 billion. Preventative planting claims were about \$4 billion in 2019.

Director Ramage said it is important to maintain the working relationships with USDA and NCIS when issues arise with crop insurance companies. Director Deiter said there have not been many issues in crop insurance lately, but he appreciates the presentation. Superintendent Dwyer said she would like to continue these updates on an annual basis.

10. Heard an Update on the Auto Insurance Report

Superintendent Dwyer reported that state insurance regulators are currently reviewing private passenger auto state exhibits created from auto data collected from statistical agents. She said the Committee plans to release the private passenger auto report on its website in the near future.

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Having no further business, the Property and Casualty Insurance (C) Committee adjourned.

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