

**NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
PROPERTY AND CASUALTY INSURANCE (C) COMMITTEE***A/A Playbook Outline Draft
August 2025 Exposed Version***NAMIC Comments (August 26, 2025)**

On behalf of the National Association of Mutual Insurance Companies (NAMIC) members, thank you for the opportunity to provide these comments on the draft “Affordability and Availability Playbook Outline” (A/A draft outline) discussed at a virtual August 5 kick off meeting in advance of the NAIC’s Summer National Meeting.

To be a usable resource, the document needs to be comprehensive because matters of availability and affordability must be considered in the context of the ecosystem in which insurers operate. NAMIC urges the drafting group to modify the draft outline to include missing key foundational aspects that govern how the business of insurance and insurance regulation work based on its intended audience. Because insurance is premised on solvency (with concentration of risk being a crucial consideration), anchored by risk-based pricing (where rates may not be excessive, inadequate, or unfairly discriminatory), and framed by current realities where risk transfer demands attention on driving risk and costs downward at scale, NAMIC asks that the playbook begin by explaining the factors that undergird a healthy private market and how they connect with fostering availability and affordability. While lengthy, the draft outline does not appear to provide some of the valuable background and data that may help inform the larger discussions about what works to move the needle for availability and affordability. Addressing this is one of the issues NAMIC highlights in these comments.

Additional content is needed to provide context as a framework for these complex topics.

At a high-level, one of the most important aspects of the project that NAMIC asks the drafting group to consider is setting the stage given the range of the potential audience as well as the complexity of the subject matter.

Audience & Approach

The draft outline states that the intended target audience for the document would be: “State Insurance Regulators, Legislators, and Policymakers.” Given the increasing interest from state legislators and other stakeholders who may not have the same depth of industry knowledge, we suggest that the document:

- (1) Be written and organized in a way that a layperson can understand; and
- (2) Begin with a simple and straightforward explanation of some of the insurance fundamentals that serve as the foundation for understanding the complex challenges and the viability of possible approaches for working to solve them.

NAMIC would be happy to help draft an introductory section on the fundamentals of insurance to make this playbook a more useful tool. A clear and straightforward explanation of these principles will benefit all parties — regulators, legislators, consumers, and industry — by ensuring that the policies being developed are grounded in an accurate understanding of how insurance works (and of actuarial science). A state regulatory system and insurance market best invites choice and stability when it values appropriately matching price to risk, allows for flexibility in underwriting and product design, respects contract language, limits legal system abuse, addresses and prevents fraud, and focuses on continuing solvency. Again, risk-based pricing protects consumers over the long term by helping to ensure that insurers are able to keep the contractual promises they make.

With this kind of context, the final work product document may better serve as a comprehensive resource that explains the nature of the product, the regulatory realities, and the broader dynamics as well as the actuality that at its core insurance is mathematical. When consumers buy insurance, they often retain some level of risk as determined by the product they purchase and as outlined in their insurance policy. And having product choices may mean both broader availability and affordability. It should be clearly explained that consumers inherently retain some level of risk and that the purchase of insurance only transfers a portion of that risk.

Cost Drivers & Insurance as a Lagging Indicator

A document that defines challenges of availability and affordability and sketches a menu of possible solutions should *begin by outlining cost drivers*. Understanding these realities by specifically discussing and keeping them top of mind is essential for forming policy approaches that remain viable over the long term.

Insurance is a late stage, or lagging, economic indicator. Simply put, insurance prices relate to the cost of *what it takes to pay for things that insurance covers*. So, when prices for what is needed to rebuild — materials and labor — go up, that impacts insurance.

Of course, the nature of the insurance product and its relationship to *risk* should also be included. For example, the backdrop of both claim frequency and severity for catastrophe and non-catastrophe losses should be considered along with weather and non-weather risks (such as those mentioned briefly below). Addressing risk and bending the risk curve at scale will take partnership with other entities, including state and local governments — as well as entities like the Insurance Institute for Business and Home Safety — to promote resiliency and/or building codes and thoughtful land use management, especially as expansion into the wildland urban interface persists. Promoting risk mitigation, as well as risk mitigation tools, is within the regulatory space and fits with rebating reform as something that can be done with the tools regulators have today.

The impact of materials and labor increases should be expected to be higher where more people are living in harm's way. *Population shifts*, as people move to riskier areas of the country, this may mean that the financial impacts of natural disasters on these areas are greater when they do occur because of those increasing materials and labor costs impact even more properties.

Materials and labor are not the only costs that impact the price of insurance. Other expenses that impact claims costs should also be discussed to provide context on challenges arising from fraud, lawsuit excess, and cost shifting.

- *Fraud* is not victimless – other consumers pay for padding claims and dishonest scams.
- Litigation laws and practices that drive *lawsuit* costs up beyond fair compensation for economic damages may contribute to availability/affordability challenges – and there are ways to reduce outsized verdicts and take excess out of the system that may more broadly aid the market and its consumers. NAMIC is pleased for the drafting group to include this topic in its plans because of the importance of these efforts. Note, it may be worthwhile to refer to “litigation” reform rather than “tort” reform.
- To the extent policymakers use insurance as a vehicle to address other policy matters, such as by *shifting financial accountability for negligence* from a responsible party to insurers and their customers – as is being done in some states with utility immunity and liability-altering approaches – regulators and legislators should consider being on the defensive to safeguard availability/affordability and to protect from negative impacts on insurance markets and consumers that may already be experiencing strain.

To further connect the above to the draft outline, under Part 1(B)(i)(b), consider referring to the cost of claims rather than rate trends. The cost of claims relates to the underlying risks and costs that are essential to telling much of the story of availability/affordability challenges and framing the discussion around those driving factors help in identifying solutions.

With more time, NAMIC would be pleased to provide additional information on these and other items.

It could be beneficial to draw attention to topics contained within the text.

While understanding that it is a massive project to collect all this information from states and to organize it into a work product, it could be valuable to connect some of the topics referenced to the broader matter of availability and affordability. Kindly note the initial feedback below, offering some examples on several of those topics.

Assignment of Benefits Reform & Lawsuit Reforms: Assignment of Benefits (AOB) reform is mentioned in the Florida, Mississippi, and Oklahoma sections, but this topic deserves its own section. As we understand it, when states eliminate AOB, post-loss claim severity of a claim is generally reduced, benefiting the insurance market and its consumers. Showcasing the positive impacts of some of these reforms as well as other lawsuit reforms –NAMIC would be pleased to offer additional information on targeted ways to reduce lawsuit abuses and excesses – could further provide valuable information for those states that want to pursue these options for driving down unnecessary costs.

Mandated Coverage: While there may be reasons why regulators may support certain mandates, they should not be included in an NAIC work product about aiding availability and affordability that is premised on marketplace health and choice. Indeed, by their very nature, they are contrary to choice in product design and contract language and they may carry with them additional costs. There are numerous ways that this can pose a serious problem for the market and consumers over the longer term.

Standardization & One-Size-Fits-All Approaches: While it may seem efficient to require all insurers to use the same tool, resources, etc., it should not be assumed that ultimately this approach helps a state's consumers. Diversity in tools (including proprietary tools) may lead to greater diversity in underwriting and rating – and this choice should be available to consumers. Competition between tools and resources also may incentivize their continuing improvement and accuracy. Greater certainty and specificity may aid insurers in making even better informed risk-based decisions. This resulting confidence may have the impact of broadening availability, seemingly this could particularly be the case with respect to understanding concentration of risk. Requiring insurers to take on risks, or to ignore risk factors about specific risks, may mean that the costs relating to that risk would need to be adequately reflected across the broader risk pool and impact more consumers. One example of where these issues have been raised as a concern with the outline relates to the references to maps. It is strongly urged that the draft outline Part I(C)(iv) relating to maps be removed.

Reinsurance: Similarly, the draft should not include overly prescriptive reinsurance requirements. One problem of this approach is that it may not fit all insurer-reinsurer contracts/arrangements. With respect to the discussion of Reinsurance under Part 1 (C) about macro-factors, there does not seem to be an acknowledgement that reinsurers allow direct insurers to write more business (which generally speaking helps with availability).

Residual Markets and FAIR Plans: There are references to FAIR Plans under different states/areas of the outline. From an organization perspective, consistent with feedback elsewhere in these comments about organizing the document, it may be useful to consolidate this discussion into one area, which could simply be in the form of tables or otherwise. Importantly, turning to the substance, not all property residual market plans are structured similarly. These differences matter. Regardless, it should be clear that FAIR Plans, if structured to be solvent over the long term, must be anchored to risk-based pricing. With this as a fact, they should only be seen as expanding availability and not affordability. It is unclear whether this distinction – and the use of the tool as a potential market extender where needed – is expected to be discussed in the playbook document. FAIR Plans should not be structured to compete with or to have competitive advantages over the private market. Importantly, in isolation, putting a FAIR Plan in place should not be seen as doing anything to modify the underlying risks and costs that are driving availability and affordability challenges.

Surplus Lines: Surplus lines insurance serves as another mechanism for extending the market. The tone of this entry under Part 1(B)(ii)(b)(v) does not appear to capture the ways that surplus lines insurance is beneficial in that it allows more customers to obtain coverage. Also, some context should be given to surplus lines' small amount of the overall homeowners market and the concentration being largely in catastrophe prone coastal states. In addition to numbers conveyed in an April 2025 Insurance Journal article,¹ the NAIC also has information on the surplus lines market.

Filings: When actuarially justified and full indicated rates are not approved (or approval is delayed significantly), insurers may not be able to secure adequate rate for the risks they would be taking. Filings should allow relevant loss history, modeling data, and other important factors to charge adequate rates.

¹ <https://www.insurancejournal.com/news/national/2025/04/29/821723.htm>

Other: As highlighted above with respect to costs, it is important to highlight legislative efforts that address risks and cost drivers.

Again, these are quickly prepared observations on some specific areas and NAMIC would be pleased to provide additional thoughts as the drafting process continues.

The document could benefit from inserting additional specific items into the document.

A broader range of input may enhance the work product.

State Input and Examples: It appears that the current outline reflects examples from a limited number of states. A legislator referring to the document may assume that it is comprehensive in nature and a compilation based on all states (rather than being limited to those states that have responded during the drafting process). With initial work serving as a useful starting point, NAMIC hopes the drafting group will actively seek engagement from other regulators and interested parties to provide additional material for inclusion in the menu of options to address a number of different facets of these challenges.

Additional Context & Range of Sources: While many of the initial submissions listed in the draft are valuable, consider allowing NAIC staff and regulators additional time to help fill gaps in submission while also providing interested parties an opportunity to assist with that process. Also, further information about the outcome of legislation may provide helpful information to those using the resource.

Some items quickly identified – but not yet widely vetted – to share with the drafting group for potential inclusion are sketched briefly below. Going forward, NAMIC may have additional information to share with the drafting group about specific laws that the group may want to review for inclusion in the playbook document (or its appendices).

Florida Reforms (Within Part 2): House Bill 837 from 2023 included other significant reforms that could impact property insurance affordability and availability (specifically regarding lawsuits and litigation-related expenses, such as modified comparative negligence, negligent security/premises liability, and certain attorney fee provisions; it also strengthens some of the reforms in HB 2A by eliminating certain statutes which 2A had made more limited or inapplicable to property claims).

Washington (Reports Section): A key 2024 report of the Community Fire Resilience Workgroup² which conducted a 5-year review of the Washington State Wildland Fire Protection Strategic Plan. This report was to serve as a reference for statewide community fire resilience efforts in Washington to inform coordination and prioritization over the next 2-5 years. The report highlights the need for more inclusive, sustainable, and well-coordinated approaches to community fire resilience. They emphasize the importance of community engagement, better resource allocation, better data collection and use, and enhanced planning and enforcement recommendations.

² <https://washingtonrcd.org/wp-content/uploads/2024/11/Wildland-Fire-Strategic-Plan-Review-Community-Resilience-Recommendations-v-1.2-11-20-24.pdf>

Agency Coordination Efforts: Over the past several National NAIC meetings, several regulator reports regarding pre- and post-disaster management have emphasized engagement with emergency management and other state agencies. Given federal administrative and Congressional discussions about FEMA and future approaches, perhaps consider whether it may be helpful to capture these matters in this paper or in another NAIC work product as it may have downstream impacts on broader matters of resiliency and protecting consumers.

Other Additional Stakeholder Input: Respectfully, NAMIC urges that additional time be taken with the outline to capture further input from/about steps that have been taken in a greater number of states about approaches for addressing costs and maintaining options in the marketplace.

In structuring the playbook document, consider ways to enhance digestibility, update easily, and connect to the playbook's purpose.

In addition to the substantive remarks, going forward, the drafting group may ease its work through some decisions about the scope of information included and the way that information is organized.

Format – Organizing with Appendices and Tables: Because the outline is organized to reference items a few ways, including by peril and otherwise, it seems that some of the material providing specific examples may be repeated and difficult to absorb. It could be helpful to move some of that content to appendices and organize it with tables or otherwise in a way that may be easy to read without lengthy duplication

Mere Proposals (Upcoming Legislation / Legislation that Did Not Pass): **A number of potential solutions throughout the draft outline have not been passed and implemented. Indeed, some are proposals that lawmakers elected not to advance (or they have not yet acted on them).** Based on this status, NAMIC strongly urges that these items be removed from the outline and not included in the subsequent document.

Outside of Homeowners Policy – Flood & Earthquake: The stated purpose of the paper is to provide policymakers with tools to address availability and affordability of homeowners insurance. Because flood and earthquake are not typically within homeowners policies, the drafting group could remove these items as out of scope for this work product.

Emerging Protection Gaps: With the large scope of the project, consider electing not to move forward with Part 3. A discussion of emerging protection gaps may distract from the core issues here. It appears that even fewer states contributed to this section of the draft outline.

Additional Data: The NAIC is already in the process of revising the largest data call ever to be a recurring collection. Including additional data calls and additional granular reviews of data should be outside the scope of this effort. To the extent that legislators review the document, they may not understand the magnitude of either the NAIC's efforts or the data to which the state regulators have access (and will in the future).

More Recent Items: A number of the items listed as potential solutions are relatively new and have not been in effect for long. Their consequences and how they will function over the long term are unknown. If those newer items are included, they should be designated as such (or organized in a separate appendix section or removed from this version (and potentially held for a subsequent edition of the playbook)) so that lawmakers will not assume that their effect is fully known.

Framing with Support (Rationale or Evidence): Where additional data about impacts of referenced laws is available, it may be useful to reference that support. For example, it could be important to include feedback on how a measure worked, whether the outcome was intended, what data may be available about results, etc. (When reviewing the material, it may also be useful to consider whether all of the items contained in the outline connect to the topic of availability and affordability.)

Inverting the Message: These comments began by pointing to the need to provide important context. It appears that at least some of this aim may be reflected in Part 4. Again, it is vital to highlight the fundamental keys to a healthy homeowners insurance market, including risk-based pricing, preventing litigation abuse, and scaling mitigation through a range of practices such as resilient building practices and discouraging building in high hazard areas.

Dated Reports: Consider whether to omit reports from the playbook that are older and published before a particular date (whether ten years or otherwise).

Timing: Given the scope, and understanding the desire to develop this product, NAMIC hopes that, because of the importance of the topic and the audience, that its completion will not be rushed.

Technical Item: Some embedded links may be broken and/or not connect to the assertions made. This may be something the drafting group may wish to review as the document continues to develop.

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With the timing and shortness of the deadline, these comments are preliminary in nature. NAMIC hopes that the drafting group will be willing to engage with stakeholders publicly for the remainder of this project. Through this process, NAMIC would be pleased to work constructively with members to identify and convey additional input for your consideration.

Finally, and more generally on this topic, given the importance of avoiding unintended consequences of efforts to broaden availability and avoid increasing affordability challenges, NAMIC respectfully strongly urges regulators to seek input from stakeholders both at the NAIC and in home states regarding potential implications of proposals over the long term on markets and customers.

NAMIC looks forward to working with you. Thank you.