

Draft date: 3/7/24

2024 Spring National Meeting  
Phoenix, Arizona

**PROPERTY AND CASUALTY INSURANCE (C) COMMITTEE**

Monday, March 18, 2024

12:30 – 2:00 p.m.

301 A West - Phoenix Convention Center - Level 3

**ROLL CALL**

Alan McClain, Chair	Arkansas	Scott Kipper	Nevada
Michael Conway, Co-Vice Chair	Colorado	David Bettencourt	New Hampshire
Michael Yaworsky, Co-Vice Chair	Florida	Alice Kane	New Mexico
Mark Fowler	Alabama	Andrew R Stolfi	Oregon
Andrew N. Mais	Connecticut	Larry D. Deiter	South Dakota
Amy L Beard	Indiana	Tregenza A Roach	U.S. Virgin Islands
Vicki Schmidt	Kansas	Kevin Gaffney	Vermont
Mike Chaney	Mississippi		

NAIC Support Staff: Aaron Brandenburg

**AGENDA**

1. Consider Adoption of its 2023 Fall National Meeting Minutes Attachment One  
—*Commissioner Alan McClain (AR)*
2. Consider Adoption of its Task Force and Working Group Reports and Minutes Attachment Two
  - A. Casualty Actuarial and Statistical (C) Task Force—*Commissioner David Bettencourt (NH)*
  - B. Surplus Lines (C) Task Force—*Director Larry D Deiter (SD)*
  - C. Title Insurance (C) Task Force—*Director Eric Dunning (NE)*
  - D. Workers’ Compensation (C) Task Force—*Commissioner Alan McClain (AR)*
  - E. Cannabis Insurance (C) Working Group—*Commissioner Ricardo Lara (CA)*
  - F. Catastrophe Insurance (C) Working Group—*Director Chlora Lindley-Myers (MO)*
  - G. Terrorism Insurance Implementation (C) Working Group—*Martha Lees (NY)*



H. Transparency and Readability of Consumer Information (C) Working Group—*George Bradner (CT)*

- |   |                  |
|---|------------------|
| 3. Hear Presentation related to Consumer Issues in Homeowners Insurance— <i>Amy Bach, United Policyholders</i>                                  | Attachment Three |
| 4. Hear Presentation related to Parametric Products<br>— <i>Roberto Guidotti, Guy Carpenter</i><br>— <i>Daren Moreira, Eversheds Sutherland</i> | Attachment Four  |
| 5. Hear Update on Property Insurance Market Intelligence Data Call<br>— <i>Commissioner Alan McClain (AR)</i>                                   |                  |
| 6. Adjournment  |                  |

**Draft Pending Adoption**

Draft: 12/13/23

Property and Casualty Insurance (C) Committee  
Orlando, Florida  
December 3, 2023

The Property and Casualty Insurance (C) Committee met in Orlando, FL, Dec. 3, 2023. The following Committee members participated: Alan McClain, Chair (AR); Grace Arnold, Co-Vice Chair (MN); Larry D. Deiter, Co-Vice Chair (SD); Mark Fowler (AL); Andrew N. Mais (CT); James J. Donelon (LA); Mike Chaney represented by Andy Case (MS) David Bettencourt represented by Keith E. Nyhan and Christian Citarella (NH); Glen Mulready (OK); Kevin Gaffney (VT); and Allan L. McVey (WV). Also participating were: Travis Grassel (IA); Vicki Schmidt (KS); Sharon Clark (KY); Cynthia Amann (MO); Troy Downing (MT); Scott Kipper (NV); Tom Botsko (OH); and Michael Wise (SC).

**1. Adopted its Summer National Meeting Minutes**

Director Deiter made a motion, seconded by Commissioner McVey, to adopt the Committee's August 15 minutes (see *NAIC Proceedings – Summer 2023, Property and Casualty Insurance (C) Committee*). The motion passed unanimously.

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

Commissioner Arnold made a motion, seconded by Commissioner Donelon, 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 (Attachment One); the Workers' Compensation (C) Task Force (Attachment Two); the Cannabis Insurance (C) Working Group; the Catastrophe Insurance (C) Working Group (Attachment Three); the Terrorism Insurance Implementation (C) Working Group; and the Transparency and Readability of Consumer Information (C) Working Group (Attachment Four). The motion passed unanimously.

**3. Adopted its 2024 Charges**

Commissioner McClain said small edits were made to the prior charges, representing tasks that have been accomplished and some that have been altered. Commissioner Mais made a motion, seconded by Commissioner Mulready, to adopt the Committee's 2024 charges (Attachment Five). The motion passed unanimously.

**4. Heard a Presentation Related to the Use of Telematics in Auto Insurance**

Tony Cotto (National Association of Mutual Insurers—NAMIC) said auto insurers file rates based on the prospective likely cost of claims and insurers strive to match rate to risk. He noted that discrimination on the basis of risk is not unfair discrimination. More cars are on the roads than ever before, and auto crashes have increased post-pandemic. Mr. Cotto said usage-based insurance programs are voluntary and measure how and how much a person uses their car. He said some studies show that 80% of drivers improve their driving after telematics coaching.

Mr. Cotto said 16 million policyholders use telematics programs for premium reduction, to enhance accuracy, or for driving assistance. He said telematics are part of the future of road safety. He noted that new laws and regulations are not needed because existing legal and privacy standards already apply to usage-based insurance product filings.

Ryan McMahan (Cambridge Mobile Telematics) said technology is used to measure the inertial movements of vehicles to derive risk, respond to crash scenes, and help facilitate the claims process. The technology assesses

## Draft Pending Adoption

risk and then provides that risk assessment back to an individual. He said there has been a rise in roadway fatalities in recent years. Cambridge has contributed to published research on distracted driving and other risks. He said telematics has been shown to improve driving and leads to safer roads and lower insurance premiums.

Dave Snyder (American Property Casualty Insurance Association) said telematics programs have been a success story by reducing underlying losses and premiums. He said there should not be unnecessary burdens put on telematics programs because the real culprit is the underlying losses and regulators and industry should work to deal with those losses.

Commissioner Beard said she would welcome NAMIC to come speak with state agencies to address these issues. She also asked if there were any non-voluntary telematics programs. Cotto said the programs are universally opt-in on the private passenger auto side. Commissioner Beard asked how telematics data is used outside of rating. Cotto said the data is used as part of the calculus of risk, along with other factors, to predict the likelihood of loss. McMahon said his company looks at events that are shown to cause crashes. These events are shown to the consumer. The technology can also detect the crash before anyone calls 911 and facilitate support at the crash scene.

Director Deiter and Commissioner McVey said a number of commissioners went to the Insurance Institute for Highway Safety (IIHS) on Oct. 31 where they learned about the research and data related to automobile safety features.

Commissioner Gaffney asked if there is any assessment of the risk profile of those who opt-in to telematics programs. Cotto said there has been a doubling of interest in telematics since 2019. McMahon said the early days of telematics made it more cumbersome to engage, meaning those individuals were probably skewed to be more safety conscious. He said one study assessed the individual participants in telematics and these individuals were very representative of the overall population in the cities they studied. Commissioner Gaffney asked if there was a relationship between take-up of telematics and credit scores. McMahon said they do not collect credit scores, but the risk is roughly equal across the spectrum of drivers.

Snyder said the driver, the roadway, and the car all have to be addressed to save lives and prevent injuries. Commissioner Donelon said auto insurance rates have increased in Louisiana by 15 and 20% in the past year because of inflation and increased risk.

Director Wise said there are some companies that have mandatory usage-based insurance programs. He said some groups have underwriting companies with mandatory programs. He said one company showed discounts before and after telematics programs and their predictions were very accurate prior to the monitoring program.

Nyhan asked if companies use telematics data to determine liability during accidents. McMahon said telematics data can help to get emergency response to the scene. He said telematics data to assess liability is in small usage at this point. John Buono said some companies use telematics for settlement of claims.

McKenney said there are insurers that only write policyholders who participate in the telematics program. He said some programs penalize individuals who obey the speed limit if others around them are not. He said some programs use open source information about roads and some use artificial intelligence to determine who is using the phone. McKenney asked if there is standardized reporting on data generated within vehicles that monitor driving. McMahon said Cambridge standardizes across 3500 different data sources.

Commissioner Clark asked if telematics has been used in litigation. The presenters said they would follow up on this question.

## Draft Pending Adoption

Michael DeLong (Consumer Federation of America) said data privacy and restrictions on data use was not discussed. He said most consumers are still suspicious of telematics programs. He said telematics programs need to be transparent, with limits on how the data are used. He also said the data should not be monetized. He said a model bulletin should be adopted that lays out consumer protections related to telematics.

### 5. Heard a Presentation on Third-Party Litigation Funding

John Bauer (RiverStone) said third-party litigation funding (TPLF) is bad for consumers and the industry and disclosure is needed. Bob Sampson (RiverStone) said RiverStone manages insurance liabilities, frequently related to mass tort litigation. He said the cost of litigation is increasing which impacts consumers.

Ginamarie Alvino (RiverStone) said third-party litigation funders spend large amounts of advertising to recruit plaintiffs for mass tort lawsuits. She said TPLF is an investment in a lawsuit where a third-party funder invests money in a lawsuit in exchange for a percentage interest in the potential recovery from a settlement or award. She said she is focused on commercial funding where there are few rules requiring disclosure making it difficult for judges and parties to know whether a funder has an interest in the outcome of the case or has control of the strategic litigation and settlement decisions. Plaintiffs may not even know their lawyer has an agreement with a funder and it is unclear who controls the strategic decisions including the decision to settle.

Ms. Alvino she said TPLF can be a cost driver that fuels nuclear verdicts. Complex commercial litigation becomes harder and more expensive to settle cases. She said funders do not have fiduciary obligations to the plaintiffs. She said Congress has introduced legislation to ban foreign investments in U.S. litigation and some state attorney generals support this bill. She said some courts have required disclosure of agreements.

Mr. Bauer suggested regulators support legislation and court rules to require disclosure of TPLF agreements in all commercial litigation and consider the relationship between TPLF and potential impacts on insurance consumers and insurance markets.

Commissioner Donelon said it is against bar rules in Louisiana for a funder to have a contingency interest in the outcome of litigation. Ms. Alvino agreed the professional rules of ethics do bar non-party money from being used to fund litigation. She said several states rejected this rule and the ABA has reconsidered its rule and reaffirmed it as being important to protect confidentiality with attorney and clients to avoid conflicts of interest.

Commissioner Beard said Indiana is interested in the state level at looking into this issue.

Ken Klein said some research finds that the involvement of TPLF does not lead to the filing of a frivolous lawsuit but does reduce the frequency of wasteful bullying strategies by defendants. Mr. Sampson said there have been studies that have found there is a tremendous amount of wasteful litigation, especially in the mass tort context. He said high percentages of mass tort litigation are dismissed because the lawsuits are heavily advertised but often not merited. He said hundreds of millions of dollars are being spent on cases where defendants never should have been named.

Peter Kochenburger (Southern University Law Center) said transparency of some type makes sense for TPLF, but he said there is not support for the assertions that many of the claims are frivolous. He said most of the costs to the court system are payments to claimants who were victims in some way. He said investors would arguably invest in the best claims. He said the Committee should hear from a TPLF investor. Mr. Sampson said sometimes the TPLF investor will buy out litigation and overrule an agreed upon settlement which drives up costs.

### 6. Heard an Update on the State Regulator Data Call

## Draft Pending Adoption

Commissioner McClain said the Committee announced during the Summer National Meeting that a drafting group of regulators was looking at what data would be needed to answer specific regulatory questions. He said the drafting group started with the purpose of the data call and questions regulators wanted to answer about the homeowners insurance market, such as what factors are driving affordability and availability challenges and how limits, deductibles and policy coverages in policies are changing, as well as cost changes in geographic areas. He said for each of those questions, the drafting group created formulas and metrics and then developed data elements that would go into those metrics. Commissioner McClain said the group identified data elements that would go into a data template. He said the data template asks for five years of data, at a ZIP Code level and by homeowner policy type. Some of the data elements included within the final template include:

- Premiums and policies, with and without certain coverages.
- Non-renewals and cancellations.
- Claims and losses
- Deductibles, bucketed by type of deductible, such as flat dollar or percentage deductible, and by peril type.
- Mitigation discounts.

Commissioner McClain said the group sought industry feedback over the past several weeks. The group plans to improve upon the definitions and include examples of how to file the data under specific circumstances. He said state regulators plan to ask for data from the top 80% of the national homeowners insurance market, and individual jurisdictions may also request data from insurers making up a certain portion of their own individual markets. He also noted that state regulators are continuing to engage with the U.S. Treasury's Federal Insurance Office (FIO) on how they can collaborate to share data and lessen industry burden.

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

SharePoint/NAIC Support Staff Hub/Committees/ ...

# **Summaries Will be Added When Available**

Consider Adoption of the Reports of its Task  
Force and Working Groups

# Guiding consumers through current home insurance affordability and availability challenges

## C Committee, NAIC Spring Meeting, Phoenix 2024

### HOW TO QUALIFY FOR THOSE DISCOUNTS

FOR THE WILDFIRE HARDENING – PROTECTING THE STRUCTURE DISCOUNT THE PROPERTY MUST MEET ALL OF THE FOLLOWING QUALIFICATIONS

-  The dwelling must have a Class-A Fire Rated Roof (meaning composition shingle, stone, concrete or clay tile, or metal)
-  6 inches at the bottom of all exterior walls must be made of non-combustible material
-  Vents must be ember and fire resistant (wire mesh covering)
-  Windows must be double paned

10% DISCOUNT



### Dropped by your home insurer? Steps to take in California

#### Act Promptly

Read the paperwork from your insurer. Contact them and ask if there are home improvements you can make that will get them to reverse their decision to drop you. Note: The non-renewal notice must be sent to you 75 days before the policy expires. [www.uphelp.org/droppedca](http://www.uphelp.org/droppedca)

STEP 1

#### Know Your Rights & Get Help

If you believe that you are being non-renewed in violation of the law, file a "Consumer Complaint" with the California Department of Insurance [www.insurance.ca.gov/01-consumers](http://www.insurance.ca.gov/01-consumers)

STEP 2

#### Shop for Options

Work with a good agent to find all options including "non-admitted" insurers. Watch UP shopping help videos and use CDI tools: [www.uphelp.org/cainsurancehelp](http://www.uphelp.org/cainsurancehelp)

STEP 3

#### Be Prepared to Pay More, Avoid Cutting Coverage

Aim to insure your home for what it would cost to rebuild it and the risks you face in your area. Keep good notes of your conversations. Avoid being in the 1/3 of homes in the US that are underinsured. [www.uphelp.org/checkup](http://www.uphelp.org/checkup)

STEP 4

#### Last Resort

The California FAIR Plan (CFP) offers basic fire protection if you can't find a "regular" company to insure you. Consider pairing a CFP policy with a "difference in conditions" policy to fill gaps in what CFP policies don't cover. [www.uphelp.org/CFP](http://www.uphelp.org/CFP)

STEP 5

# UP: A 32 year old 501(c)(3) insurance consumer non-profit

Our website, programming, volunteers and guidance help over 500,000 people each year



underscores a larger issue that...



FEBRUARY 6, 2024

## Oklahoma insurance rates increase again – proposed legislation could help

Many families in Oklahoma have been opening up their mail to find notices that their insurance rates have gone up again, sometimes by hundreds of dollars. Frustrated drivers and homeowners have to find ways to budget for the added and unwanted cost. "Oklahoma has been...



FEBRUARY 6, 2024

## Storms in California hit homeowners already facing an insurance crisis

The storms pummeling California this week hit a part of the US already being battered by a home insurance crisis. Insurance costs in much of California have become exceedingly high, with some insurers abandoning the market, unwilling to take on the risk presented by the...



FEBRUARY 6, 2024

## Storms in California hit homeowners already facing an insurance crisis

The storms pummeling California this week hit a part of the US already being battered by a home insurance crisis. Insurance costs in much of California have become exceedingly high, with some insurers abandoning the market, unwilling to take on the risk presented by the...

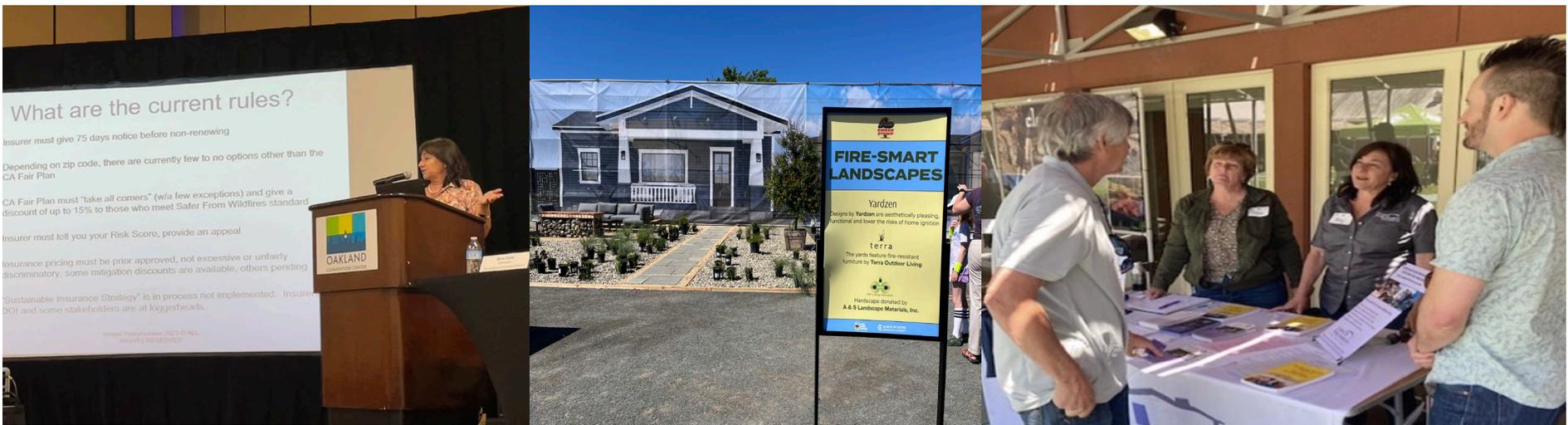
# UP Goals:

**Help property owners keep their assets protected through policies that meet reasonable expectations of coverage**

**Advance/increase mitigation support and insurance rewards (premium discounts, renewal assurances)**

**Monitor the home insurance marketplace, gather data**

**Contribute to problem-solving, sound public policy, innovation, solutions**



## Standard tips:

- **Comparison shop based on coverage, not just price.**
- **Use shopping tools your state DOI offers**
- **Request a list of all discounts the insurer offers, ask for those you qualify for.**
- **Bundle your home, auto and/or umbrella policies with one insurance company.**
- **Insure your dwelling for replacement cost value.**
- **If feasible, buy gap filler products (including peril-specific policies flood and earthquake damage).**
- **Increase your deductible, avoid filing small claims.**

# UPdated tips for current conditions:

- **Start shopping right away**
- **Get help from a professional agent or broker**
- **Reduce risk/mitigate**
- **Understand your deductible options**
- **Find out your risk score, correct errors**
- **Consider all types of insurer options**
- **Supplement as feasible**
- **Trim coverage**

# Start shopping right away

**As soon as you get a non-renewal notice, start shopping – don't procrastinate**

- CA law requires 75 days notice
- CO law requires 60 days notice
- NAIC model law 720 re: non-renewals requires 30 days



# Get help from a professional agent or broker

**Seek out an experienced, pro-active insurance agent or broker.**

**If an agent or broker tells you your only option is a residual market plan, check with at least one other agent or broker.**

- **Captive vs. Independent**
- **Surplus/Non-Admitted/Excess/Surplus**

# Reduce risk/Mitigate

**Do as much mitigation as you can to reduce the risk of your home being damaged or destroyed in a severe weather event.**

**Seek out programs in your community that offer mitigation help and/or grants.**

**Provide your insurer with documentation of completed mitigation steps and/or your community's risk reduction activities.**

# Raise your deductible, (use caution)

**Get quotes for different deductible levels and make an informed decision:**

**A higher deductible reduces your premium.**

**Too high a deductible means your insurance won't cover even a moderate-sized claim.**

**Do your best to understand how a policy with a wind, and/or roof deductible impact available benefits.**

# Find out your Risk Score, correct errors

**Ask in writing for your risk score, appeal if its based on inaccurate info**

**Can a consumer change their risk score?**

“If a policyholder appeals a score and presents evidence, the insurance carrier can easily request a change to the relevant information, such as the year of construction for a property. The updated score is then automatically generated and made available in the UI, along with an audit trail of any changes made. This functionality not only streamlines the appeals process, but also helps carriers in scenario planning” Zesty A.I.

<https://zesty.ai/news/californias-new-wildfire-risk-regulations-your-top-10-questions-answered>

# Consider all options

**If you can't find a name brand insurer willing to insure your home, options include residual market plans and non-admitted (surplus lines) companies**

- Non-admitted (no form and rate regulation or guarantee fund), check financial strength**
- Find an agent who is knowledgeable re: residual market details, options**

# Supplement as feasible

**If a last resort insurance plan is your only option,  
consider supplemental policies to fill gaps.**

- Difference in conditions**
- Extra challenging with today's prices**

# Trim coverage

**Reduce/eliminate coverage you can live without (e.g. high dollar limits on Contents, Other Structures)**

- **NOT Dwelling limits (Underinsurance risk)**
- **Feasible? (many carriers include automatic coverages)**

# How can an insurance agent/broker help me?

- **Put in the time to find the best available options.**
- **Find options that are only available through a broker.**
- **Help you make good decisions.**
- **Tailor your coverages to your specific situation and needs.**
- **Help you understand pros and cons and options offered by non-standard (“non-admitted” “excess/surplus”) companies and/or government-sponsored last resort insurance programs.**
- **Some insurance brokers/agencies offer premium financing plans.**

# Concepts for restoring affordability

The Insure Act: [https://schiff.house.gov/imo/media/doc/insure\\_act.pdf](https://schiff.house.gov/imo/media/doc/insure_act.pdf)

The public reinsurance program created by this legislation would insulate consumers from unrestrained cost increases by offering insurers a transparent, fairly priced public reinsurance alternative for the worst climate-driven catastrophes

Hawaii proposal:

[https://www.capitol.hawaii.gov/sessions/session2024/Bills/HB2056\\_HD1\\_.pdf](https://www.capitol.hawaii.gov/sessions/session2024/Bills/HB2056_HD1_.pdf) [T]he purpose of this Act is to establish a working group to identify

the feasibility of a state-run reinsurance program to offset the liabilities of private reinsurance companies as a means of ensuring affordable coverage for property owners against catastrophic events, such as wildfires or flooding.

Idaho proposal:

<https://legislature.idaho.gov/sessioninfo/2024/legislation/H0619/>

The purpose of this legislation is to address the challenges consumers are facing in obtaining affordable property coverage due to potential wildfire risk. The bill creates an Idaho Wildfire Risk Reinsurance and Mitigation Pool and board.



## We've got your back when insurance matters

United Policyholders (UP) is a non-profit 501(c)(3) whose mission is to be a trustworthy and useful information resource and a respected voice for consumers of all types of insurance in all 50 states. We don't take money from insurance companies. We give you the straight scoop. Guide you on buying insurance and navigating claims. Fight for your rights.

[info@uphelp.org](mailto:info@uphelp.org) | [www.uphelp.org](http://www.uphelp.org)

# Thank you!

Committee members and meeting attendees for your time and attention

[www.uphelp.org](http://www.uphelp.org)

# **Presentation Will be Added When Available**

## **Parametric Products**

**Roberto Guidotti and Elaine Sabino, Guy Carpenter**