

Date: 12/7/19

2019 Fall National Meeting  
Austin, Texas

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

**Monday, December 9, 2019**

**1:30 – 3:00 p.m.**

**JW Marriott Austin—JW Grand Ballroom 1-4—Level 4**

**ROLL CALL**

Elizabeth Kelleher Dwyer, Chair	Rhode Island	Al Redmer Jr.	Maryland
Scott A. White, Vice Chair	Virginia	Marlene Caride	New Jersey
Jim L. Ridling	Alabama	John G. Franchini	New Mexico
Ricardo Lara	California	Glen Mulready	Oklahoma
Andrew N. Mais	Connecticut	Larry Deiter	South Dakota
David Altmaier	Florida	James A. Dodrill	West Virginia
Robert H. Muriel	Illinois	Mark Afable	Wisconsin
James J. Donelon	Louisiana		

NAIC Support Staff: Aaron Brandenburg/Kris DeFrain

**AGENDA**

1. Consider Adoption of its Nov. 18 Minutes—*Superintendent Elizabeth Kelleher Dwyer (RI)* Attachment One
2. Consider Adoption of its Task Force and Working Group Reports—*Superintendent Elizabeth Kelleher Dwyer (RI)* Attachment Two
  - a. Casualty Actuarial and Statistical (C) Task Force—*Commissioner Steve Kelley (MN)*
  - b. Surplus Lines (C) Task Force—*Commissioner James J. Donelon (LA)*
  - c. Title Insurance (C) Task Force—*Commissioner James J. Donelon (LA)*
  - d. Workers' Compensation (C) Task Force—*Superintendent John G. Franchini (NM)*
  - e. Cannabis Insurance (C) Working Group—*Commissioner Ricardo Lara (CA)*
  - f. Catastrophe Insurance (C) Working Group—*Commissioner Mike Chaney (MS)*
  - g. Climate Risk and Resilience (C) Working Group—*Commissioner Mike Kreidler (WA)*
  - h. Lender-Placed Insurance Model Act (C) Working Group—*Commissioner David Altmaier (FL)*
  - i. Pet Insurance (C) Working Group—*Don Beatty (VA)*
  - j. Terrorism Insurance Implementation (C) Working Group—*Martha Lees (NY)*
  - k. Transparency and Readability of Consumer Information (C) Working Group—*Angela Nelson (MO)*
3. Consider Adoption of its 2020 Proposed Charges—*Superintendent Elizabeth Kelleher Dwyer (RI)* Attachment Three
4. Consider Adoption of a Blanks Request Related to Private Flood Insurance—*Superintendent Elizabeth Kelleher Dwyer (RI)* Attachment Four
5. Consider Adoption of the NAIC *Considerations for State Insurance Regulators in Building the Private Flood Insurance Market*— *Superintendent Elizabeth Kelleher Dwyer (RI)* Attachment Five
6. Hear a Presentation from SBP Related to Resilience and Mitigation Efforts—*Mark Smith (SBP)* Attachment Six
7. Hear a Presentation from the American Property Casualty Insurance Association (APCIA) and the National Association of Mutual Insurance Companies (NAMIC) Regarding Underinsurance Issues—*David F. Snyder (APCIA) and Cate Paolino (NAMIC)* Attachment Seven

8. Hear an Update from the United States Department of Agriculture (USDA) and the National Crop Insurance Services (NCIS) Regarding Crop Insurance—*Dave Miller (USDA) and Tom Zacharias (NCIS)*
9. Discuss Any Other Matters Brought Before the Committee—*Superintendent Elizabeth Kelleher Dwyer (RI)*
10. Adjournment

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Draft: 11/21/19

Property and Casualty Insurance (C) Committee  
Conference Call  
November 18, 2019

The Property and Casualty Insurance (C) Committee met via conference call Nov. 18, 2019. The following Committee members participated: Elizabeth Kelleher Dwyer, Chair (RI); Scott A. White, Vice Chair (VA); Jim L. Ridling (AL); Ricardo Lara represented by Ken Allen (CA); Andrew N. Mais represented by George Bradner (CT); David Altmaier and Robert Lee (FL); James J. Donelon (LA); Marlene Caride represented by Carl Sornson (NJ); John G. Franchini represented by Ashley Hernandez (NM); Glen Mulready (OK); Larry Deiter represented by Jill Kruger (SD); and Mark Afable (WI).

1. Adopted its Sept. 10 Conference Call Minutes

The Committee met Sept. 10 and took the following action: 1) adopted its Summer National Meeting minutes; and 2) adopted a data call template to collect private flood data.

Commissioner Afable made a motion, seconded by Commissioner Donelon, to adopt the Committee's Sept. 10 minutes (Attachment). The motion passed unanimously.

2. Adopted Documents Related to the Private Flood Insurance Data Call

Superintendent Dwyer said the Committee adopted a private flood insurance data call template on Sept. 10 contingent on changes to make the data elements consistent with the financial annual statement and the Market Conduct Annual Statement (MCAS). She said NAIC staff made those changes, and the template—along with information related to data checks and filing the data—was distributed. She said one of the main purposes for the data call and subsequent blanks revisions is for state insurance regulators, industry, consumers and others to have an accurate picture of the private flood insurance market, its growth and who the major carriers are. She noted that for data calls, states often collect data under their examination laws because the data needs to be kept confidential. She said data within the data call will mirror what will be collected in 2021 on the annual statement. Data collected on the annual statement will be publicly available as it normally is. Superintendent Dwyer said the data collected through the data call will be publicly available just as the data collected on the annual statement will be. She noted that to implement the data call, NAIC staff will be reaching out to all states asking them to indicate participation through a signed document.

Birny Birnbaum (Center for Economic Justice—CEJ) said the instructions say the data should be reported in a spreadsheet format, but later it lists input requirements referring to comma delimited format, which is a text format. Aaron Brandenburg (NAIC) said the instructions would be clarified.

Don Griffin (American Property Casualty Insurance Association—APCIA) asked why the data call would be public if state insurance regulators could just wait for the annual statement data to be submitted. Superintendent Dwyer said 2020 data on private flood insurance would not be collected on the annual statement until 2021. She also said what is currently collected on the annual statement does not split residential policies from commercial policies. She said state insurance regulators and others desire to know which companies are writing what sort of policies. Superintendent Dwyer noted that writers of commercial general liability policies that do not exclude flood coverage cannot be distinguished from companies writing residential flood coverage. Mr. Griffin said other lines of business, such as workers' compensation or stop loss products, are not separated between first dollar and excess.

Mr. Birnbaum said that flood insurance data is fundamentally different as it mixes commercial and residential coverages and that it is critical to distinguish primary from excess coverages in order to inform public policy issues. He said state insurance regulators should lead that discussion and they need to have the data to do so. He said the special data call just collects the annual statement data at an earlier time. Commissioner Donelon agreed with this and said state insurance regulators need to have residential policies separated out from commercial policies in order to inform public policy discussions. Superintendent Dwyer said that state insurance regulators are often asked who is writing what coverages and that currently they cannot answer that.

Commissioner Mulready made a motion, seconded by Commissioner White, to adopt the supplemental documentation related to the private flood data call. The motion passed unanimously.

3. Discussed Proposed Blanks Changes Related to Private Flood Insurance

Superintendent Dwyer said the Committee had previously distributed a proposal to collect private flood insurance data through a new annual statement supplement that would collect residential and commercial private flood insurance data and through revisions to the Credit Insurance Experience Exhibit that would collect lender-placed flood coverage data. She said comments were received on the proposed changes from the APCIA, the National Association of Mutual Insurers (NAMIC) and the CEJ.

Mr. Lee asked why first dollar and excess coverages would not be collected within the Credit Insurance Experience Exhibit. He said the National Flood Insurance Program (NFIP) has a separate program for lender-placed policies. Mr. Birnbaum said if flood is required and a policyholder is given a forced-placed policy, it is on a first dollar basis, but if a lender requires more than the maximum offered by the NFIP, there would also be force-placed excess coverage. He suggested that should be broken out on the Credit Insurance Experience Exhibit. Superintendent Dwyer said a revised version of the Exhibit would be distributed prior to the Fall National Meeting, at which time the Committee might consider adoption of the blanks proposal.

Mr. Griffin said he is concerned that collecting first dollar and excess coverages would require changes to the way companies collect data. He said he understands that state insurance regulators need to understand the market, but it will take a lot of time to report data in this manner. He said he does not see a need to determine primary from excess for lender-placed policies.

Mr. Birnbaum said lender-placed policies are usually written by the same insurer for primary and excess coverages, but this is not necessarily true in the voluntary market. He said there are likely different companies specializing in first dollar and excess coverages. He said a distinction is needed between first dollar and excess so that state insurance regulators can see who is writing the policies and whether there is different experience in the policies. He said the distinction between first dollar and excess is being made on the MCAS and in the surplus lines flood data collection. He also said the blanks process allows companies to have ample time to make changes so they can report the data. He said first dollar and excess will be written by companies on two different forms, so it should not be that difficult to report the data.

4. Discussed the Fall National Meeting

Superintendent Dwyer said during the Fall National Meeting, the Committee hopes to consider adoption of a document from the Catastrophe Insurance (C) Working Group that describes steps states can take to facilitate the growth of the private flood insurance market. She said the Committee will also consider adoption of its 2020 proposed charges. She said the Committee will continue a conversation from the Summer National Meeting on underinsurance by hearing from APCIA and NAMIC. She said the Committee will also hear from SBP, which is a nonprofit organization that will speak about its mission to prepare citizens prior to and following disasters with mitigation and resilience steps.

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

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**Attachment Two**  
**PENDING**

Draft: 11/18/19

Adopted by the Executive (EX) Committee and Plenary, TBD

Adopted by the Property and Casualty Insurance (C) Committee, TBD

## 2020 Proposed Charges

### PROPERTY AND CASUALTY INSURANCE (C) COMMITTEE

The mission of the Property and Casualty Insurance (C) Committee is to: 1) monitor and respond to problems associated with the products, delivery and cost in the property/casualty (P/C) insurance market and the surplus lines market as they operate with respect to individual persons and businesses; 2) monitor and respond to problems associated with financial reporting matters for P/C insurers that are of interest to regulatory actuaries and analysts; and 3) monitor and respond to problems associated with the financial aspects of the surplus lines market.

#### Ongoing Support of NAIC Programs, Products or Services

1. The **Property and Casualty Insurance (C) Committee** will:
  - A. Discuss issues arising and make recommendations with respect to advisory organization and insurer filings for personal and commercial lines, as needed. Report yearly.
  - B. Monitor the activities of the Casualty Actuarial and Statistical (C) Task Force.
  - C. Monitor the activities of the Surplus Lines (C) Task Force.
  - D. Monitor the activities of the Title Insurance (C) Task Force.
  - E. Monitor the activities of the Workers' Compensation (C) Task Force.
  - F. Provide an impartial forum for considering appeals of adverse decisions involving alien insurers delisted or rejected for listing to the *Quarterly Listing of Alien Insurers*. Appeal procedures are described in the International Insurers Department (IID) Plan of Operation.
  - G. Monitor and review developments in case law and rehabilitation proceedings related to risk-retention groups (RRGs). If warranted, make appropriate changes to the *Risk Retention and Purchasing Group Handbook*.
  - H. Monitor the activities of the Federal Crop Insurance Corporation (FCIC) that affect state insurance regulators:
    1. Serve as a forum for discussing issues related to the interaction of federal crop insurance programs with state insurance regulation.
    2. Review law changes and court decisions and, if warranted, make appropriate changes to the *Federal Crop Insurance Program Handbook: A Guide for Insurance Regulators*.
    3. Monitor the regulatory information exchanges between the FCIC and state insurance regulators, as well as the FCIC and the NAIC, and make recommendations for improvement or revisions, as needed.
  - I. Report on the private flood insurance market using data obtained from the state insurance regulator private flood insurance data call.
2. The **Cannabis Insurance (C) Working Group** will:
  - A. Assess and periodically report on the status of federal legislation that would protect financial institutions from liability associated with providing services to cannabis businesses operating legally under state law.
  - B. Encourage admitted insurers to ensure coverage adequacy in states where cannabis, including hemp, is legal.
  - C. Provide insurance resources to stakeholders and keep up with new products and innovative ideas that may shape insurance in this space.
  - D. Collect aggregated insurance availability and coverage gap information, as well as other cannabis and hemp insurance-related data, to then publicly share in a released report by the end of 2021.
3. The **Catastrophe Insurance (C) Working Group** will:
  - A. Monitor and recommend measures to improve the availability and affordability of insurance and reinsurance related to catastrophe perils for personal and commercial lines.
  - B. Evaluate potential state, regional and national programs to increase capacity for insurance and reinsurance related to catastrophe perils.
  - C. Monitor and assess proposals that address disaster insurance issues at the federal and state levels. Assess concentration-of-risk issues and whether a regulatory solution is needed.
  - D. Provide a forum for discussing issues and recommending solutions related to insuring for catastrophe risk, including terrorism, war and natural disasters.

- E. Provide a forum for discussing various issues related to catastrophe modeling, and monitor issues that will result in changes to the *Catastrophe Computer Modeling Handbook*.
  - F. Investigate and recommend ways the NAIC can assist states in responding to disasters, and discuss issues surrounding loss mitigation. Update the *State Disaster Response Plan*, as needed, so that it provides a blueprint for action by the states to respond to catastrophic events.
  - G. Continue to examine ways to help state insurance regulators facilitate the private flood insurance market.
  - H. Study, in coordination with other NAIC task forces and working groups, earthquake matters of concern to state insurance regulators. Consider various innovative earthquake insurance coverage options aimed at improving take-up rates.
4. The **Climate Risk and Resilience (C) Working Group** will:
- A. Engage with industry and stakeholders in the U.S. and abroad on climate related risk and resiliency issues.
  - B. Investigate and recommend measures to reduce risks of climate change related to catastrophic events.
  - C. Identify insurance and other financial mechanisms to protect infrastructure and reduce exposure to the public.
  - D. Identify sustainability, resilience and mitigation issues and solutions related to the insurance industry.
  - E. Evaluate private-public partnerships to improve insurance market capacity related to catastrophe perils.
  - F. Investigate and receive information regarding the use of modeling by carriers and their reinsurers concerning climate risk.
  - G. Review the impact of climate change on insurers through presentations by interested parties.
  - H. Review innovative insurer solutions to climate risk, including new insurance products through presentations by interested parties.
5. The **Lender-Placed Insurance Model Act (C) Working Group** will:
- A. Complete the drafting and adoption of a new model law concerning lender-placed insurance as it relates to mortgages.
6. The **Pet Insurance (C) Working Group** will:
- A. Complete the development of a model law or guideline to establish appropriate regulatory standards for the pet insurance industry.
7. The **Terrorism Insurance Implementation (C) Working Group** will:
- A. Coordinate the NAIC's efforts to address insurance coverage for acts of terrorism. Work with the U.S. Department of the Treasury's Terrorism Risk Insurance Program (TRIP) Office on matters of mutual concern. Discuss long-term solutions to address the risk of loss from acts of terrorism.
  - B. Review and report on data collection related to insurance coverage for acts of terrorism.
8. The **Transparency and Readability of Consumer Information (C) Working Group** will:
- A. Study and evaluate actions that will improve the capacity of consumers to comparison shop on the basis of differences in coverage provided by different insurance carriers offering personal lines products.
  - B. Systematize and improve presale disclosures of coverage.
  - C. Facilitate consumers' capacity to understand the content of insurance policies and assess differences in insurers' policy forms.
  - D. Assist other groups with drafting language included within consumer-facing documents.
  - E. Study and discuss whether there is a need for consumer disclosures regarding significant premium increases on property/casualty (P/C) insurance products.
  - F. Update and develop webpage and mobile content for *A Shopping Tool for Homeowners Insurance* and *A Shopping Tool for Automobile Insurance*.
  - G. Discuss and draft a disclosure for state insurance regulators to consider requiring to be added to homeowners' policies regarding the fact that homeowners policies do not cover losses from flood, earthquake or other specified disasters

NAIC Support Staff: Aaron Brandenburg/Kris DeFrain

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Draft: 11/18/2019

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Property and Casualty Insurance (C) Committee, TBD*

*Adopted by the Casualty Actuarial and Statistical (C) Task Force, Oct. 9, 2018*

## 2020 Proposed Charges

### CASUALTY ACTUARIAL AND STATISTICAL (C) TASK FORCE

The mission of the Casualty Actuarial and Statistical (C) Task Force is to identify, investigate and develop solutions to actuarial problems and statistical issues in the property/casualty (P/C) insurance industry. The Task Force's goals are to assist state insurance regulators with maintaining the financial health of P/C insurers; ensuring that P/C insurance rates are not excessive, inadequate or unfairly discriminatory; and ensuring that appropriate data regarding P/C insurance markets are available.

#### Ongoing Support of NAIC Programs, Products or Services

1. The **Casualty Actuarial and Statistical (C) Task Force** will:
  - A. Provide reserving, pricing, ratemaking, statistical and other actuarial support to NAIC committees, task forces and/or working groups. Propose changes to the appropriate work products (with the most common work products noted below) and present comments on proposals submitted by others regarding casualty actuarial and statistical matters. Monitor the activities, including the development of financial services regulations and statistical (including disaster) reporting, regarding casualty actuarial issues.
    1. Property and Casualty Insurance (C) Committee – ratemaking, reserving or data issues.
    2. Blanks (E) Working Group – P/C annual financial statement, including Schedule P; P/C quarterly financial statement; P/C quarterly and annual financial statement instructions, including Statement of Actuarial Opinion (SAO) and Actuarial Opinion Summary Supplement.
    3. Capital Adequacy (E) Task Force – P/C risk-based capital (RBC) report.
    4. Group Solvency Issues (E) Working Group and ORSA Implementation (E) Subgroup – Own Risk and Solvency Assessment (ORSA).
    5. Statutory Accounting Principles (E) Working Group – *Accounting Practices and Procedures Manual (AP&P Manual)*, and review and provide comments on statutory accounting issues being considered under *SSAP No. 65—Property and Casualty Contracts*.
    6. Speed to Market (EX) Working Group – P/C actuarial sections of the *Product Filing Review Handbook*.
  - B. Monitor national casualty actuarial developments and consider regulatory implications.
    1. Casualty Actuarial Society (CAS) – *Statements of Principles and Syllabus of Basic Education*.
    2. American Academy of Actuaries (Academy) – *Standards of Practices, Council on Professionalism, and Casualty Practice Council*.
    3. Society of Actuaries (SOA) – general insurance track's basic education.
    4. Federal legislation.
  - C. Facilitate discussion among state insurance regulators regarding rate filing issues of common interest across the states through the scheduling of regulator-only conference calls.
  - D. Work with the CAS and SOA to identify: 1) whether the P/C Appointed Actuaries' logs of continuing education (CE) should contain any particular categorization to assist regulatory review; 2) what types of learning P/C Appointed Actuaries are using to meet CE requirements for "Specific Qualification Standards" today; and 3) whether more specificity should be added to the P/C Appointed Actuaries' CE requirements to ensure that CE is aligned with the educational needs for a P/C Appointed Actuary.
  - E. In coordination with the Big Data (EX) Working Group:
    1. Draft and propose changes to the *Product Filing Review Handbook* to include best practices for the review of predictive models and analytics filed by insurers to justify rates.
    2. Draft and propose state guidance (e.g., information, data) for rate filings that are based on complex predictive models.
    3. Facilitate training and the sharing of expertise through predictive analytics webinars (Book Club).
2. The **Actuarial Opinion (C) Working Group** will:
  - A. Propose revisions to the following, as needed, especially to improve actuarial opinions, actuarial opinion summaries, and actuarial reports, as well as the regulatory analysis of these actuarial documents and loss and premium reserves:
    1. *Financial Analysis Handbook*.

2. *Financial Condition Examiners Handbook.*
  3. *Annual Statement Instructions—Property/Casualty.*
  4. Regulatory guidance to appointed actuaries and companies.
  5. Other financial blanks and instructions, as needed.
3. The **Statistical Data (C) Working Group** will:
- A. Consider updates and changes to the *Statistical Handbook of Data Available to Insurance Regulators.*
  - B. Consider updates and developments, provide technical assistance, and oversee the production of the following reports and databases. Periodically evaluate the demand and utility versus the costs of production of each product.
    1. *Dwelling Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance.*
    2. *Auto Insurance Database.*
    3. *Competition Database Report.*
    4. *Report on Profitability by Line by State.*

NAIC Support Staff: Kris DeFrain/Jennifer Gardner/Libby Crews

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DRAFT

Draft: 11/18/19

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Property and Casualty Insurance (C) Committee, TBD*

*Adopted by the Surplus Lines (C) Task Force, TBD*

## 2020 Proposed Charges

### SURPLUS LINES (C) TASK FORCE

The mission of the Surplus Lines (C) Task Force is to monitor the surplus lines market and regulation, including the activity and financial condition of U.S. and alien surplus lines insurers by providing a forum for discussion of issues; and develop or amend relevant NAIC model laws, regulations and/or guidelines.

#### Ongoing Support of NAIC Programs, Products or Services

1. The **Surplus Lines (C) Task Force** will:
  - A. Provide a forum for discussion of current and emerging surplus lines-related issues and topics of public policy and determine appropriate regulatory response and action.
  - B. Review and analyze quantitative and qualitative data on U.S. domestic and alien surplus lines industry results and trends.
  - C. Monitor federal legislation related to the surplus lines market and ensure that all interested parties remain apprised.
  - D. Develop or amend relevant NAIC model laws, regulations and/or guidelines.
  - E. Oversee the activities of the Surplus Lines (C) Working Group.
2. The **Surplus Lines (C) Working Group** will:
  - A. Operate in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings and operate in open session when discussing surplus lines topics and policy issues, such as amendments to the International Insurers Department (IID) Plan of Operation.
  - B. Maintain and draft new guidance within the IID Plan of Operation regarding standards for admittance and continued inclusion on the NAIC *Quarterly Listing of Alien Insurers*.
  - C. Review and consider appropriate decisions regarding applications for admittance to the NAIC *Quarterly Listing of Alien Insurers*.
  - D. Analyze renewal applications of alien surplus lines insurers on the NAIC *Quarterly Listing of Alien Insurers* and ensure solvency and compliance per the IID Plan of Operation guidelines for continued listing.
  - E. Provide a forum for surplus lines-related discussion among jurisdictions.

NAIC Support Staff: Andy Daleo/Bob Schump

Draft: 11/18/19

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Property and Casualty Insurance (C) Committee, TBD*

*Adopted by the Title Insurance (C) Task Force, Oct. 25, 2019*

## 2020 Proposed Charges

### TITLE INSURANCE (C) TASK FORCE

The mission of the Title Insurance (C) Task Force is to study issues related to title insurers and title insurance producers.

#### Ongoing Support of NAIC Programs, Products or Services

1. The **Title Insurance (C) Task Force** will:
  - A. Monitor issues and developments occurring in the title insurance industry, and provide support and expertise to other NAIC committees, task forces and/or working groups, or outside entities, as appropriate.
  - B. Review and assist various regulatory bodies in combating fraudulent and/or unfair real estate settlement activities. Such efforts could include working with the Antifraud (D) Task Force and other NAIC committees, task forces and/or working groups to combat mortgage fraud and mitigating title agent defalcations through the promotion of closing protection letters and other remedies. Report results at each national meeting.
  - C. Consult with the Consumer Financial Protection Bureau (CFPB) and other agencies responsible for information, education and disclosure for mortgage lending, closing and settlement services about the role of title insurance in the real estate transaction process.
  - D. Consider the effectiveness of changes in financial reporting by title insurance companies and identify further improvements and clarifications to blanks, instructions, Statement of Statutory Accounting Principles (SSAPs), solvency tools, and other matters, as necessary. Coordinate efforts with the Statutory Accounting Principles (E) Working Group.
  - E. Revise the *Title Insurance Consumer Shopping Tool Template* to include questions and answers about title insurance-related fraud topics, including but not limited to, closing protection letters and wire fraud.
  - F. Evaluate the effectiveness of closing protection letters, including but not limited to, intent, state regulation and requirements, consumer protections offered and excluded, and potential alternatives for coverage.

NAIC Support Staff: Anne Obersteadt/Aaron Brandenburg

Draft: 11/18/19

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Property and Casualty Insurance (C) Committee, TBD*

*Adopted by the Workers' Compensation (C) Task Force, Oct. 24, 2019*

## 2020 Proposed Charges

### WORKERS' COMPENSATION (C) TASK FORCE

The mission of the Workers' Compensation (C) Task Force is to study the nature and effectiveness of state approaches to workers' compensation and related issues, including, but not limited to: assigned risk plans; safety in the workplace; treatment of investment income in rating; occupational disease; cost containment; and the relevance of adopted NAIC model laws, regulations and/or guidelines pertaining to workers' compensation.

#### Ongoing Support of NAIC Programs, Products or Services

1. The **Workers' Compensation (C) Task Force** will:
  - A. Oversee activities of the NAIC/IAIABC Joint (C) Working Group.
  - B. Discuss issues with respect to advisory organizations, rating organizations, statistical agents, and insurance companies in the workers' compensation arena.
  - C. Monitor the movement of business from the standard markets to the assigned risk pools. Alert state insurance department representatives if growth of the assigned risk pools changes dramatically.
  - D. Follow workers' compensation issues regarding cannabis in coordination with the Cannabis Insurance (C) Working Group.
2. The **NAIC/IAIABC Joint (C) Working Group** will:
  - A. Study issues of mutual concern to insurance regulators and the International Association of Industrial Accident Boards and Commissions (IAIABC). Review relevant IAIABC model laws and white papers and consider possible charges in light of the Working Group's recommendations.
  - B. Complete the drafting and adoption of the white paper, *Changing Employee Relationships* – Completion date anticipated in early 2020.

NAIC Support Staff: Sara Robben/Aaron Brandenburg

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**NAIC BLANKS (E) WORKING GROUP**

**Blanks Agenda Item Submission Form**

<p style="text-align: right;"><b>DATE:</b> <u>November 27,</u> <u>2019</u></p> <p><b>CONTACT PERSON:</b> <u>Aaron Brandenburg</u></p> <p><b>TELEPHONE:</b> _____</p> <p><b>EMAIL ADDRESS:</b> <u>abrandenburg@naic.org</u></p> <p><b>ON BEHALF OF:</b> <u>Property &amp; Casualty Insurance (C) Cmte</u></p> <p><b>NAME:</b> _____</p> <p><b>TITLE:</b> _____</p> <p><b>AFFILIATION:</b> _____</p> <p><b>ADDRESS:</b> _____</p>	<p style="text-align: center;"><b><u>FOR NAIC USE ONLY</u></b></p> <p>Agenda Item # _____</p> <p>Year _____</p> <p>Changes to Existing Reporting [ <input type="checkbox"/> ]</p> <p>New Reporting Requirement [ <input type="checkbox"/> ]</p> <hr/> <p style="text-align: center;"><b><u>REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</u></b></p> <p>No Impact [ <input type="checkbox"/> ]</p> <p>Modifies Required Disclosure [ <input type="checkbox"/> ]</p> <hr/> <p style="text-align: center;"><b><u>DISPOSITION</u></b></p> <p>[ <input type="checkbox"/> ] Rejected For Public Comment</p> <p>[ <input type="checkbox"/> ] Referred To Another NAIC Group</p> <p>[ <input type="checkbox"/> ] Received For Public Comment</p> <p>[ <input type="checkbox"/> ] Adopted Date _____</p> <p>[ <input type="checkbox"/> ] Rejected Date _____</p> <p>[ <input type="checkbox"/> ] Deferred Date _____</p> <p>[ <input type="checkbox"/> ] Other (Specify) _____</p>
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**BLANK(S) TO WHICH PROPOSAL APPLIES**

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> ANNUAL STATEMENT | <input type="checkbox"/> QUARTERLY STATEMENT          |   |
| <input type="checkbox"/> INSTRUCTIONS                | <input type="checkbox"/> CROSSCHECKS                  | <input checked="" type="checkbox"/> BLANK |
| <input type="checkbox"/> Life and Accident & Health  | <input checked="" type="checkbox"/> Property/Casualty | <input type="checkbox"/> Health           |
| <input type="checkbox"/> Separate Accounts           | <input type="checkbox"/> Fraternal                    | <input type="checkbox"/> Title            |
| <input type="checkbox"/> Other Specify               |   |   |

Anticipated Effective Date: Annual 2021

**IDENTIFICATION OF ITEM(S) TO CHANGE**

A new Private Flood Insurance Supplement collecting residential and commercial private flood insurance data and revisions to the Credit Insurance Experience Exhibit (CIEE) to collect lender-placed flood coverages.

**REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE\*\***

The State Page currently collects private flood insurance data but does not split residential from commercial coverages. Regulators, as well as industry and consumers, have a desire to better monitor and assess the growth of the residential private flood insurance market as that market begins to grow. A new Supplement will separate residential from commercial as well as capturing stand alone/endorsement and first dollar/excess policy information. The revisions to the CIEE will allow for the collection of lender-placed flood coverages in order to get a more complete picture of the private flood insurance market.

**NAIC STAFF COMMENTS**

Comment on Effective Reporting Date: \_\_\_\_\_

Other Comments:

\*\* This section must be completed on all forms.

Revised 6/13/2009

**PRIVATE FLOOD INSURANCE SUPPLEMENT**

Affix Bar Code Above

For The Year Ended December 31, 2020  
(To Be Filed by **March 31**)

NAIC Group Code .....

NAIC Company Code.....

Company Name  
.....

**Part 1 - Interrogatories**

**Private Flood Insurance Coverage:**

- 1. Does the reporting entity write any stand-alone first-dollar residential private flood insurance? Yes [ ] No [ ]  
If yes, complete Part 2
- 2. Does the reporting entity write any stand-alone excess residential private flood insurance? Yes [ ] No [ ]  
If yes, complete Part 3
- 3. Does the reporting entity write any first-dollar residential private flood insurance provided as an endorsement? Yes [ ] No [ ]  
If yes, complete Part 4
- 4. Does the reporting entity write any excess residential private flood insurance provided as an endorsement? Yes [ ] No [ ]  
If yes, complete Part 5
- 5. Does the reporting entity write any commercial private flood insurance provided as either a stand-alone or package policy? (include both first-dollar and excess) Yes [ ] No [ ]  
If yes, complete Part 6

Part 2 – Standalone Residential Private Flood Policies  
Policy and Claims Data  
First Dollar

	States, Etc.		Direct Written Premium	Direct Premium Earned	Direct Losses Paid	Direct Losses Case Reserves Incurred	Defense and Cost Containment Expense Paid	Defense and Cost Containment Case Reserves Expense Incurred	Number of Policies In Force (as of 1/1/2020)	Number of Policies In Force (as of 12/31/2020)	Number of Claims Reported Open on 1/1/2020	Number of Claims Opened during the Reporting Year	Number of Claims Open on 12/31/2020	Number of Claims Closed with Payment
1	Alabama	AL	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999
2	Alaska	AK												
3	Arizona	AZ												
4	Arkansas	AR												
5	California	CA												
6	Colorado	CO												
7	Connecticut	CT												
8	Delaware	DE												
9	District of Columbia	DC												
10	Florida	FL												
11	Georgia	GA												
12	Hawaii	HI												
13	Idaho	ID												
14	Illinois	IL												
15	Indiana	IN												
16	Iowa	IA												
17	Kansas	KS												
18	Kentucky	KY												
19	Louisiana	LA												
20	Maine	ME												
21	Maryland	MD												
22	Massachusetts	MA												
23	Michigan	MI												
24	Minnesota	MN												
25	Mississippi	MS												
26	Missouri	MO												
27	Montana	MT												
28	Nebraska	NE												
29	Nevada	NV												
30	New Hampshire	NH												
31	New Jersey	NJ												
32	New Mexico	NM												
33	New York	NY												
34	North Carolina	NC												
35	North Dakota	ND												
36	Ohio	OH												
37	Oklahoma	OK												
38	Oregon	OR												
39	Pennsylvania	PA												
40	Rhode Island	RI												
41	South Carolina	SC												
42	South Dakota	SD												
43	Tennessee	TN												
44	Texas	TX												
45	Utah	UT												
46	Vermont	VT												
47	Virginia	VA												
48	Washington	WA												
49	West Virginia	WV												
50	Wisconsin	WI												
51	Wyoming	WY												
52	American Samoa	AS												
53	Guam	GU												
54	Puerto Rico	PR												
55	U.S. Virgin Islands	VI												
56	Northern Mariana Islands	MP												
57	Totals													

Part 3 - Standalone Residential Private Flood Policies  
Policy and Claims Data  
Excess

	States, Etc.		Direct Written Premium	Direct Premium Earned	Direct Losses Paid	Direct Losses Case Reserves Incurred	Defense and Cost Containment Expense Paid	Defense and Cost Containment Case Reserves Expense Incurred	Number of Policies In Force (as of 1/1/2020)	Number of Policies In Force (as of 12/31/2020)	Number of Claims Reported Open on 1/1/2020	Number of Claims Opened during the Reporting Year	Number of Claims Open on 12/31/2020	Number of Claims Closed with Payment
1	Alabama	AL	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999
2	Alaska	AK												
3	Arizona	AZ												
4	Arkansas	AR												
5	California	CA												
6	Colorado	CO												
7	Connecticut	CT												
8	Delaware	DE												
9	District of Columbia	DC												
10	Florida	FL												
11	Georgia	GA												
12	Hawaii	HI												
13	Idaho	ID												
14	Illinois	IL												
15	Indiana	IN												
16	Iowa	IA												
17	Kansas	KS												
18	Kentucky	KY												
19	Louisiana	LA												
20	Maine	ME												
21	Maryland	MD												
22	Massachusetts	MA												
23	Michigan	MI												
24	Minnesota	MN												
25	Mississippi	MS												
26	Missouri	MO												
27	Montana	MT												
28	Nebraska	NE												
29	Nevada	NV												
30	New Hampshire	NH												
31	New Jersey	NJ												
32	New Mexico	NM												
33	New York	NY												
34	North Carolina	NC												
35	North Dakota	ND												
36	Ohio	OH												
37	Oklahoma	OK												
38	Oregon	OR												
39	Pennsylvania	PA												
40	Rhode Island	RI												
41	South Carolina	SC												
42	South Dakota	SD												
43	Tennessee	TN												
44	Texas	TX												
45	Utah	UT												
46	Vermont	VT												
47	Virginia	VA												
48	Washington	WA												
49	West Virginia	WV												
50	Wisconsin	WI												
51	Wyoming	WY												
52	American Samoa	AS												
53	Guam	GU												
54	Puerto Rico	PR												
55	U.S. Virgin Islands	VI												
56	Northern Mariana Islands	MP												
57	Totals													

**Part 4 - Residential Private Flood Policy Endorsements  
Policy and Claims Data  
First Dollar**

	States, Etc.		Direct Written Premium	Direct Premium Earned	Direct Losses Paid	Direct Losses Incurred	Defense and Cost Containment Expense Paid	Defense and Cost Containment Case Reserves Expense Incurred	Number of Policies In Force (as of 1/1/2020)	Number of Policies In Force (as of 12/31/2020)	Number of Claims Reported Open on 1/1/2020	Number of Claims Opened during the Reporting Year	Number of Claims Open on 12/31/2020	Number of Claims Closed with Payment
1	Alabama	AL	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999
2	Alaska	AK												
3	Arizona	AZ												
4	Arkansas	AR												
5	California	CA												
6	Colorado	CO												
7	Connecticut	CT												
8	Delaware	DE												
9	District of Columbia	DC												
10	Florida	FL												
11	Georgia	GA												
12	Hawaii	HI												
13	Idaho	ID												
14	Illinois	IL												
15	Indiana	IN												
16	Iowa	IA												
17	Kansas	KS												
18	Kentucky	KY												
19	Louisiana	LA												
20	Maine	ME												
21	Maryland	MD												
22	Massachusetts	MA												
23	Michigan	MI												
24	Minnesota	MN												
25	Mississippi	MS												
26	Missouri	MO												
27	Montana	MT												
28	Nebraska	NE												
29	Nevada	NV												
30	New Hampshire	NH												
31	New Jersey	NJ												
32	New Mexico	NM												
33	New York	NY												
34	North Carolina	NC												
35	North Dakota	ND												
36	Ohio	OH												
37	Oklahoma	OK												
38	Oregon	OR												

SUPPLEMENT FOR THE YEAR OF THE

39	Pennsylvania	PA											
40	Rhode Island	RI											
41	South Carolina	SC											
42	South Dakota	SD											
43	Tennessee	TN											
44	Texas	TX											
45	Utah	UT											
46	Vermont	VT											
47	Virginia	VA											
48	Washington	WA											
49	West Virginia	WV											
50	Wisconsin	WI											
51	Wyoming	WY											
52	American Samoa	AS											
53	Guam	GU											
54	Puerto Rico	PR											
55	U.S. Virgin Islands	VI											
56	Northern Mariana Islands	MP											
57	Totals												

**Part 5 - Residential Private Flood Policy Endorsements  
Policy and Claims Data  
Excess**

	States, Etc.		Direct Written Premium	Direct Premium Earned	Direct Losses Paid	Direct Losses Case Reserves Incurred	Defense and Cost Containment Expense Paid	Defense and Cost Containment Case Reserves Expense Incurred	Number of Policies In Force (as of 1/1/2020)	Number of Policies In Force (as of 12/31/2020)	Number of Claims Reported Open on 1/1/2020	Number of Claims Opened during the Reporting Year	Number of Claims Open on 12/31/2020	Number of Claims Closed with Payment
1	Alabama	AL	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999	999,999,999,999
2	Alaska	AK												
3	Arizona	AZ												
4	Arkansas	AR												
5	California	CA												
6	Colorado	CO												
7	Connecticut	CT												
8	Delaware	DE												
9	District of Columbia	DC												
10	Florida	FL												
11	Georgia	GA												
12	Hawaii	HI												
13	Idaho	ID												
14	Illinois	IL												
15	Indiana	IN												
16	Iowa	IA												
17	Kansas	KS												
18	Kentucky	KY												
19	Louisiana	LA												
20	Maine	ME												
21	Maryland	MD												
22	Massachusetts	MA												





**PART 4 – CREDIT PROPERTY INSURANCE**

	1	2	3	4	5	6	7	8	9	10	11
	Creditor Placed Home Hazard Single Interest	Creditor Placed Home Hazard Dual Interest	Creditor Placed Wind Only Single Interest	Creditor Placed Wind Only Dual Interest	Creditor Placed Home Flood Only First Dollar	Creditor Placed Home Flood Only Excess	Creditor Placed Auto-Single Interest	Creditor Placed Auto- Dual Interest	Personal Property-Single Interest	Personal Property-Dual Interest	Other (a)
<b>1. Earned Premiums:</b>											
1.1 Gross written premiums.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1.2 Refunds on terminations.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1.3 Net written premiums (Lines 1.1-1.2).....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1.4 Premium reserves, start of period.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1.5 Premium reserves, end of period.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1.6 Actual earned premiums (Lines 1.3+1.4-1.5).....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1.7 Earned premiums at prima facie rates.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
<b>2. Incurred Claims:</b>											
2.1 Claims paid.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
2.2 Total claim reserves, start of period.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
2.3 Total claim reserves, end of period.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
2.4 Incurred claims (Lines 2.1-2.2+2.3).....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
<b>3. Incurred Compensation:</b>											
3.1 Commissions and service fees incurred.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
3.2 Other incurred compensation.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
3.3 Total incurred compensation (Lines 3.1+3.2).....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
3.4 Commissions/service fee percentage (Lines 3.1/1.3) ..	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%
3.5 Other incurred compensation percentage (Lines 3.2/1.6) ..	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%
<b>4. Loss Percentage:</b>											
4.1 Actual loss percentage (Lines 2.4/1.6).....	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%
4.2 Loss percentage at prima facie rates (Lines 2.4/1.7) ...	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%	.....%
<b>5. Incurred Loss Adjustment Expense:</b>											
5.1 Defense and cost containment expenses incurred .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
5.2 Adjusting and other expenses incurred .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
<b>6. Written Exposures</b>	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
<b>7. Earned Exposures</b>	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

(a) Provide a description of "other" coverages (including their percent of Line 1.6, Column 7): \_\_\_\_\_

November 19, 2019

The following document provides information regarding ways for a department of insurance (DOI) to encourage the growth of private residential flood insurance.

Currently, the Property and Casualty Insurance (C) Committee is considering enhancing the collection of private flood data. These efforts include: 1) collecting information that separates residential private flood insurance premiums from commercial private flood insurance premiums; and 2) breaking the information down by stand-alone policies and endorsements to homeowners insurance policies, by both first dollar and excess. Additionally, the proposed supplement will provide claims and policy data.

Furthermore, it has been proposed that lender-placed flood insurance data be collected on the Credit Insurance Experience Exhibit and private flood insurance data be collected for the surplus lines market through the Surplus Lines (C) Working Group.

The Market Regulation and Consumer Affairs (D) Committee has developed a private flood insurance line for the Market Conduct Annual Statement (MCAS), which will collect 2020 data in 2021. The data is expected to follow the same format as the homeowners MCAS with a focus on private flood insurance.

Other considerations for the Property and Casualty Insurance (C) Committee include:

- 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 Leadership Council (GRLC) to resolve at the federal level.



# CONSIDERATIONS FOR STATE INSURANCE REGULATORS IN BUILDING THE PRIVATE FLOOD INSURANCE MARKET

NOVEMBER 19, 2019

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## BACKGROUND AND PURPOSE

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State insurance regulators have first-hand experience with the devastating effects that floods have on the constituents in their states, and they believe it is critical that flood insurance is both available and affordable in order to encourage purchases that thereby protect homes, businesses and personal property. Although private flood insurance is being written largely in the commercial market, this paper will focus on the residential flood insurance market.

For more than a half-century, the federal government's National Flood Insurance Program (NFIP) has been the primary player in the residential flood insurance market, underwriting most policies while private insurers have largely focused on a relatively small residential supplemental market. While the NFIP has done a laudable job in making flood insurance available for millions of residential properties, a significant flood insurance gap exists across the U.S.<sup>1</sup> with flood event after flood event revealing a substantial number of damaged properties being uninsured.<sup>2</sup> A Federal Emergency Management Agency (FEMA) analysis from 2018 indicates that 69% of American homes in high-risk flood zones do not have flood insurance. Concurrently, there has been a heightened interest amongst private carriers to expand their residential flood insurance offerings, greatly assisted by the development of more sophisticated flood mapping and risk modeling technologies.

Funding for continuation of the NFIP expired in September 2017, and since then, the U.S. Congress has passed numerous short-term extensions, and more are expected. The federal Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters) requires lenders to accept private flood insurance policies meeting certain requirements just as they would an NFIP policy to satisfy the federal mandatory purchase mortgage requirement. The NAIC has been engaged legislatively and with the federal banking regulators on their rulemaking.<sup>3</sup> In February 2019, after six years of deliberation, the federal banking regulators finalized their rule. The final rule provides the requirements<sup>4</sup> for lenders to accept provide flood insurance policies. The rule also provides lenders the option to accept private flood insurance policies that do not meet the mandatory acceptance requirements set forth in Biggert-Waters subject to certain conditions.

State insurance regulators and the NAIC support a long-term NFIP reauthorization, as well as the facilitation of increased private sector involvement in the sale of flood insurance, which can help ensure that consumers have access to multiple options. In 2016, the NAIC developed the "NAIC Principles for National Flood Insurance Program (NFIP) Reauthorization"<sup>5</sup> and has testified in Congress on the importance of ensuring a viable private flood insurance market as an alternative to the NFIP.<sup>6</sup>

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<sup>1</sup> <https://riskcenter.wharton.upenn.edu/wp-content/uploads/2019/02/Moving-the-Needle-on-Closing-the-Flood-Insurance-Gap.pdf>.

<sup>2</sup> [www.pciaa.net/docs/default-source/industry-issues/4\\_lessonslearned.pdf](http://www.pciaa.net/docs/default-source/industry-issues/4_lessonslearned.pdf).

<sup>3</sup> [https://www.naic.org/documents/government\\_relations\\_comment\\_letter\\_federal\\_banking\\_private\\_flood\\_insurance.pdf](https://www.naic.org/documents/government_relations_comment_letter_federal_banking_private_flood_insurance.pdf).

<sup>4</sup> The key conditions in the final rule are: 1) a requirement that the policy provide sufficient protection for a designated loan, consistent with general safety and soundness principles; and 2) a requirement that the regulated lending institution document its conclusion regarding the sufficiency of protection in writing. The final rule also allows regulated lending institutions to exercise their discretion to accept certain plans providing coverage issued by "mutual aid societies."

<sup>5</sup> [https://www.naic.org/documents/government\\_relations\\_161019\\_nfip\\_guiding\\_principles.pdf](https://www.naic.org/documents/government_relations_161019_nfip_guiding_principles.pdf).

<sup>6</sup> [https://www.naic.org/documents/government\\_relations\\_160113\\_testimony\\_private\\_flood\\_insurance.pdf](https://www.naic.org/documents/government_relations_160113_testimony_private_flood_insurance.pdf).

**Following from this NAIC action, the purpose of this document is to provide state insurance regulators with concrete actions that can be and/or have been taken to assist with the development of the burgeoning private insurance market for residential flood insurance.**

## OVERALL STATE OF THE FLOOD INSURANCE MARKET

According to the most recent data collected by the NAIC (Table 1), approximately \$644 million of direct premium was written in the private flood insurance market in 2018 throughout the U.S. In 2018, the private flood insurance market represented 15% of the total flood insurance market (\$4.2 billion). The private flood insurance market has been growing over the past few years, with the \$644 million in direct premium written in 2018 being an increase of 9% from 2017 direct written premiums, and an increase of 71% since 2016. In 2018, California, Florida, Louisiana, New Jersey, New York, Pennsylvania, Puerto Rico and Texas each had \$20 million or more of private flood insurance direct written premium (Table 1), with these eight states/jurisdictions representing nearly 60% of the total private flood insurance market.

It is important to note that the NAIC Annual Statement data used in Table 1 and Table 2 does not differentiate between residential private flood insurance premium and commercial private flood insurance premium. The NAIC is exploring data collection via a supplement and/or data call to collect data for residential private flood insurance and commercial private flood insurance separately.

Beyond this aggregate view of premium being written by state, for a relative sense of market penetration and growth of the private flood market, two other views of the NAIC data are presented: 1) private flood as a percentage of total flood written per state in 2018 (Table 1); and 2) private flood growth by state from 2016 to 2018 (Table 2).

<b>Table 1: Private Flood as a Percentage of Total Flood Written per State in 2018</b>				
<b>State</b>	<b>Direct Premium Written – Private</b>	<b>Direct Written Premium – NFIP</b>	<b>Total</b>	<b>Private Flood Percentage</b>
AK	\$ 726,128	\$ 2,173,734	\$ 2,899,862	25%
AL	\$ 4,717,310	\$ 37,369,849	\$ 42,087,159	11%
AR	\$ 2,918,840	\$ 13,387,226	\$ 16,306,066	18%
AS	\$ 17	\$ 38,356	\$ 38,373	0%
AZ	\$ 13,616,250	\$ 20,785,412	\$ 34,401,662	40%
CA	\$ 83,598,726	\$ 184,728,154	\$ 268,326,880	31%
CO	\$ 6,815,467	\$ 17,996,733	\$ 24,812,200	27%
CT	\$ 8,554,006	\$ 52,057,947	\$ 60,611,953	14%
DC	\$ 2,023,055	\$ 1,481,959	\$ 3,505,014	58%
DE	\$ 1,870,439	\$ 19,394,560	\$ 21,264,999	9%
FL	\$ 79,664,174	\$ 974,338,089	\$ 1,054,002,263	8%
GA	\$ 13,822,654	\$ 59,793,148	\$ 73,615,802	19%
GU	\$ 23,475	\$ 348,208	\$ 371,683	6%
HI	\$ 3,511,428	\$ 40,778,877	\$ 44,290,305	8%
IA	\$ 9,261,662	\$ 12,894,876	\$ 22,156,538	42%
ID	\$ 1,685,637	\$ 4,443,509	\$ 6,129,146	28%
IL	\$ 15,571,396	\$ 41,782,653	\$ 57,354,049	27%
IN	\$ 9,754,263	\$ 22,122,449	\$ 31,876,712	31%
KS	\$ 5,619,810	\$ 8,096,167	\$ 13,715,977	41%

<b>Table 1: Private Flood as a Percentage of Total Flood Written Per State in 2018 (cont'd)</b>				
<b>State</b>	<b>Direct Premium Written – Private</b>	<b>Direct Written Premium – NFIP</b>	<b>Total</b>	<b>Private Flood Percentage</b>
KY	\$ 5,562,791	\$ 19,859,236	\$ 25,422,027	22%
LA	\$ 20,518,942	\$ 332,451,130	\$ 352,970,072	6%
MA	\$ 17,035,775	\$ 77,215,928	\$ 94,251,703	18%
MD	\$ 6,161,138	\$ 38,179,561	\$ 44,340,699	14%
ME	\$ 1,826,143	\$ 8,778,305	\$ 10,604,448	17%
MI	\$ 7,287,062	\$ 20,395,079	\$ 27,682,141	26%
MN	\$ 6,072,364	\$ 7,828,757	\$ 13,901,121	44%
MO	\$ 10,054,439	\$ 21,828,499	\$ 31,882,938	32%
MP	\$ 1,406	\$ -	\$ 1,406	100%
MS	\$ 5,401,764	\$ 43,786,173	\$ 49,187,937	11%
MT	\$ 1,107,818	\$ 3,679,000	\$ 4,786,818	23%
NC	\$ 10,477,327	\$ 109,932,602	\$ 120,409,929	9%
ND	\$ 1,808,961	\$ 6,508,148	\$ 8,317,109	22%
NE	\$ 3,426,045	\$ 8,737,796	\$ 12,163,841	28%
NH	\$ 1,579,406	\$ 8,531,507	\$ 10,110,913	16%
NJ	\$ 33,570,528	\$ 215,735,820	\$ 249,306,348	13%
NM	\$ 2,025,523	\$ 10,462,171	\$ 12,487,694	16%
NV	\$ 4,598,626	\$ 8,083,596	\$ 12,682,222	36%
NY	\$ 47,243,273	\$ 205,299,097	\$ 252,542,370	19%
OH	\$ 15,400,298	\$ 33,185,859	\$ 48,586,157	32%
OK	\$ 3,076,462	\$ 11,092,205	\$ 14,168,667	22%
OR	\$ 6,248,012	\$ 23,928,017	\$ 30,176,029	21%
PA	\$ 22,141,354	\$ 65,301,183	\$ 87,442,537	25%
PR	\$ 21,658,142	\$ 7,645,531	\$ 29,303,673	74%
RI	\$ 2,317,465	\$ 18,409,898	\$ 20,727,363	11%
SC	\$ 13,703,417	\$ 137,792,886	\$ 151,496,303	9%
SD	\$ 834,247	\$ 3,115,261	\$ 3,949,508	21%
TN	\$ 12,179,549	\$ 24,574,361	\$ 36,753,910	33%
TX	\$ 63,221,041	\$ 435,173,125	\$ 498,394,166	13%
UT	\$ 2,712,200	\$ 2,509,861	\$ 5,222,061	52%
VA	\$ 9,475,832	\$ 78,057,383	\$ 87,533,215	11%
VI	\$ 37,329	\$ 2,185,181	\$ 2,222,510	2%
VT	\$ 698,550	\$ 4,937,502	\$ 5,636,052	12%
WA	\$ 12,061,004	\$ 31,765,783	\$ 43,826,787	28%
WI	\$ 5,896,222	\$ 11,790,299	\$ 17,686,521	33%
WV	\$ 1,804,872	\$ 16,683,897	\$ 18,488,769	10%
WY	\$ 899,933	\$ 1,580,170	\$ 2,480,103	36%
<b>Total</b>	<b>\$ 643,879,997</b>	<b>\$ 3,571,032,713</b>	<b>\$ 4,214,912,710</b>	<b>15%</b>

<b>Table 2: Private Flood Growth by State from 2016 to 2018</b>					
<b>State</b>	<b>Direct Premium Written – 2018</b>	<b>Direct Premium Written – 2017</b>	<b>Direct Premium Written – 2016</b>	<b>Percentage of Change Premium Written from 2017 to 2018</b>	<b>Percentage of Change Premium from 2016 to 2018</b>
AK	\$ 726,128	\$ 957,063	\$ 555,129	-24%	31%
AL	\$ 4,717,310	\$ 4,799,724	\$ 3,005,135	-2%	57%
AR	\$ 2,918,840	\$ 2,826,120	\$ 1,607,656	3%	82%
AS	\$ 17	\$ -	\$ -	N/A	N/A
AZ	\$ 13,616,250	\$ 11,068,965	\$ 6,260,448	23%	117%
CA	\$ 83,598,726	\$ 71,951,648	\$ 48,786,070	16%	71%
CO	\$ 6,815,467	\$ 6,097,813	\$ 4,735,996	12%	44%
CT	\$ 8,554,006	\$ 9,810,824	\$ 6,787,613	-13%	26%
DC	\$ 2,023,055	\$ 2,838,882	\$ 1,829,183	-29%	11%
DE	\$ 1,870,439	\$ 1,669,426	\$ 740,005	12%	153%
FL	\$ 79,664,174	\$ 84,491,040	\$ 47,796,186	-6%	67%
GA	\$ 13,822,654	\$ 12,154,732	\$ 6,953,126	14%	99%
GU	\$ 23,475	\$ 61,491	\$ 9,396	-62%	150%
HI	\$ 3,511,428	\$ 4,707,292	\$ 3,149,891	-25%	11%
IA	\$ 9,261,662	\$ 7,973,218	\$ 6,739,156	16%	37%
ID	\$ 1,685,637	\$ 1,246,073	\$ 842,501	35%	100%
IL	\$ 15,571,396	\$ 14,022,683	\$ 9,770,834	11%	59%
IN	\$ 9,754,263	\$ 9,359,454	\$ 5,834,525	4%	67%
KS	\$ 5,619,810	\$ 5,187,276	\$ 3,519,857	8%	60%
KY	\$ 5,562,791	\$ 5,184,777	\$ 3,636,333	7%	53%
LA	\$ 20,518,942	\$ 17,883,168	\$ 11,495,497	15%	78%
MA	\$ 17,035,775	\$ 15,255,682	\$ 8,980,394	12%	90%
MD	\$ 6,161,138	\$ 4,881,020	\$ 3,004,956	26%	105%
ME	\$ 1,826,143	\$ 1,393,303	\$ 1,449,308	31%	26%
MI	\$ 7,287,062	\$ 5,784,426	\$ 3,112,100	26%	134%
MN	\$ 6,072,364	\$ 6,034,414	\$ 4,382,496	1%	39%
MO	\$ 10,054,439	\$ 8,579,964	\$ 5,611,173	17%	79%
MP	\$ 1,406	\$ 673	\$ -	109%	N/A
MS	\$ 5,401,764	\$ 4,954,089	\$ 3,545,564	9%	52%
MT	\$ 1,107,818	\$ 965,222	\$ 546,157	15%	103%
NC	\$ 10,477,327	\$ 9,385,350	\$ 5,916,463	12%	77%

State	Direct Premium Written – 2018	Direct Premium Written – 2017	Direct Premium Written – 2016	Percentage of Change Premium Written from 2017 to 2018	Percentage of Change Premium from 2016 to 2018
ND	\$ 1,808,961	\$ 1,518,138	\$ 1,033,168	19%	75%
NE	\$ 3,426,045	\$ 2,733,969	\$ 1,819,577	25%	88%
NH	\$ 1,579,406	\$ 1,773,337	\$ 1,516,804	-11%	4%
NJ	\$ 33,570,528	\$ 28,862,467	\$ 17,035,409	16%	97%
NM	\$ 2,025,523	\$ 1,735,136	\$ 662,921	17%	206%
NV	\$ 4,598,626	\$ 4,574,608	\$ 2,440,079	1%	88%
NY	\$ 47,243,273	\$ 47,674,483	\$ 27,419,308	-1%	72%
OH	\$ 15,400,298	\$ 14,202,904	\$ 5,628,305	8%	174%
OK	\$ 3,076,462	\$ 3,507,498	\$ 1,746,619	-12%	76%
OR	\$ 6,248,012	\$ 4,730,473	\$ 2,910,035	32%	115%
PA	\$ 22,141,354	\$ 18,832,760	\$ 13,240,946	18%	67%
PR	\$ 21,658,142	\$ 19,554,982	\$ 19,436,229	11%	11%
RI	\$ 2,317,465	\$ 2,623,963	\$ 1,286,538	-12%	80%
SC	\$ 13,703,417	\$ 12,726,603	\$ 10,633,358	8%	29%
SD	\$ 834,247	\$ 770,092	\$ 572,506	8%	46%
TN	\$ 12,179,549	\$ 8,584,856	\$ 5,939,417	42%	105%
TX	\$ 63,221,041	\$ 53,512,832	\$ 31,771,120	18%	99%
UT	\$ 2,712,200	\$ 1,958,666	\$ 1,050,341	38%	158%
VA	\$ 9,475,832	\$ 8,527,381	\$ 4,727,129	11%	100%
VI	\$ 37,329	\$ 43,449	\$ 122,459	-14%	-70%
VT	\$ 698,550	\$ 520,374	\$ 297,124	34%	135%
WA	\$ 12,061,004	\$ 11,566,163	\$ 9,609,189	4%	26%
WI	\$ 5,896,222	\$ 4,140,377	\$ 2,300,499	42%	156%
WV	\$ 1,804,872	\$ 1,986,325	\$ 1,614,061	-9%	12%
WY	\$ 899,933	\$ 959,541	\$ 713,965	-6%	26%
<b>Total</b>	<b>\$ 643,879,997</b>	<b>\$ 589,147,189</b>	<b>\$ 376,130,254</b>	<b>9%</b>	<b>71%</b>

Clearly, this data suggests that there are considerable opportunities for private flood insurance placement and market development. However, it is important to note that in 2018, the majority of growth occurred in the private commercial flood insurance market. The residential private flood insurance market showed a slight decline from 2017.<sup>7</sup>

As insurers' familiarity with flood catastrophe models grows, as underwriting experience develops and as state regulatory structures evolve, the number of private flood insurance policies in force could continue to grow, including among admitted carriers. Therefore, it is important to understand what the states have done (or not done) to enhance this growth.

<sup>7</sup> <https://www.insurancejournal.com/research/app/uploads/2019/06/FINAL-Private-Flood-Insurance-Report-2019.pdf>.

## STATE ACTION

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During the six years of uncertainty regarding the federal banking rules for private flood insurance, a number of states began undertaking efforts to encourage the growth of a private flood insurance market in their state. Florida's efforts to establish a private flood insurance market have been applauded as a potential model to be used in other states looking to expand their residential private flood insurance offerings. Florida has the largest flood insurance market in the country; approximately 35% of NFIP policies are written there.<sup>8</sup> Florida has enacted legislation to create a statutory framework, allowing private insurers to offer multiple types of flood coverage ranging from standard coverage, which mirrors the NFIP, to other enhanced coverages. This legislation includes: 1) streamlining the rate filing process for private flood insurers; 2) eliminating the diligent search requirement for flood policies issued by surplus lines carriers until July 2019; and 3) providing a process by which the Office of Insurance Regulation (OIR) will certify that a private insurer's policy equals or exceeds coverage provided by the NFIP. Florida's OIR issued an informational memorandum providing guidance on how private insurers will need to demonstrate the financial capacity to assume this risk, as well as options for developing private flood rates and policy forms.

In addition to Florida, we can draw upon the existing experiences from other states in developing a robust flood insurance market along the key aspects of insurance regulation.

The NAIC reached out to the states on the drafting group to provide information that was not readily available on the states' websites, as well as to gather information from other resources, including: 1) the Wharton School of the University of Pennsylvania study *The Emerging Private Residential Flood Insurance Market in the United States*; 2) Government Accountability Office (GAO) reports; and 3) a recently updated Congressional Research Service (CRS) report regarding private flood insurance and the NFIP. In the future, the NAIC might want to consider sending a more detailed questionnaire to the states to gather more information regarding the developing private flood insurance market.

State efforts to grow a viable private flood insurance market include:

### Legislative and Regulatory Changes

- Supporting private flood insurance legislation.
- Approving private flood insurance products.
- Tailoring rate and form requirements for private flood insurance coverage.
- Allowing private flood insurers to submit rates on an informational basis.
- Removing diligent search requirements.

### Consumer Information

- Conducting consumer outreach.
- Listing private flood insurance products on a department of insurance's (DOI) website.
- Collecting residential private flood insurance data.

### Agent and Lender Actions

- Implementing specific continuing education (CE) requirements for producers.
- Increasing the weighting of flood insurance questions on producer licensing exams.
- Conducting agent education.
- Conducting lender education.

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<sup>8</sup> [www.floods.org/ace-files/documentlibrary/committees/Insurance/Emerging\\_Flood\\_Insurance\\_Market\\_Report-Wharton-07-13-18.pdf](http://www.floods.org/ace-files/documentlibrary/committees/Insurance/Emerging_Flood_Insurance_Market_Report-Wharton-07-13-18.pdf).

## LEGISLATIVE AND REGULATORY CHANGES

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### Supporting Private Flood Insurance Legislation

In addition to Florida's legislation, West Virginia has passed legislation requiring insurers to file their private flood insurance plan of operation with the insurance commissioner and authorizing expedited processing of surplus lines policies for flood insurance.

### Approving Private Flood Insurance Products

Personal lines private flood insurance products are being approved by a number of states. Currently, Alabama, California, Mississippi and Pennsylvania are among states approving new personal lines private flood insurance products for entry into the market.

In January 2018, the Insurance Services Office (ISO) developed a new private flood insurance form, for both personal and commercial flood insurance. The ISO forms are similar to a homeowner's policy form. However, the damage to the property must be caused by flooding. As of March 2018, ISO personal flood insurance forms have been filed in 43 jurisdictions, and commercial flood insurance forms have been filed in 45 jurisdictions. The states with independent rating bureaus are not reflected in these numbers.

## TAILORING RATE AND FORM REQUIREMENTS FOR PRIVATE FLOOD INSURANCE COVERAGE

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The states might want to consider permitting insurers to file private flood insurance products without a prior approval requirement. For example, Florida law permits private flood insurance rates to be implemented without prior approval at the time of filing. However, insurers are required to keep supporting actuarial data for two years. Furthermore, Florida law allows insurers to request the state to certify that a private policy provides flood coverage that equals or exceeds that offered by NFIP. (See Appendix I for information on Florida's process.)

Maryland, South Carolina and Pennsylvania have not relaxed the rate and form filing requirements. However, they are committed to an efficient and swift overview of private flood insurance filings, and they will work with insurers to make the filing and approval process as smooth as possible.

## EXPORT LIST / WAIVING DILIGENT SEARCH REQUIREMENTS

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Insurance generally must be sold in the admitted market. Only after a "diligent search" of the admitted market is performed and coverage is denied can insurance be placed in the surplus lines market. However, states make exceptions for those types of insurance that are known to not be available in the admitted market. These insurance products are listed on what is known as an "Export list." When a type of insurance is listed on an Export list, the applicant can go straight to the surplus lines market without the need for the diligent search, thereby obtaining coverage more easily and quickly. At least 14 states have placed flood insurance on their "Export list," including: Alaska, Arizona, Connecticut, Idaho, Louisiana, New Jersey, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Virginia, West Virginia and Wisconsin.

### Allowing Private Flood Insurers to Submit Rates on an Informational Basis

Allowing insurers to submit rates on an informational basis in states with prior approval rate filing laws is another way to encourage the growth of the private flood insurance market. Two states that have

taken this approach include Florida and New Jersey.<sup>9</sup> (See Appendix I for information on Florida's process.)

## CONSUMER INFORMATION

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### Consumer Outreach

It is important to understand that everyone lives in a flood zone. Some people live in higher-risk flood zones than others, but we all live in a flood zone.

When people say they live or do not live in a flood zone, they typically mean what is known as a "special flood hazard area". A "special flood hazard area" is an area within FEMA's 100-year flood plain. This is where flood insurance is typically mandatory as a condition of obtaining a property loan. But there are flood zones outside of the 100-year flood plain as well. For example, there is also what FEMA classifies as moderate risk flood zones. These are the properties in the 500-year flood plain. By definition, and according to FEMA, these properties have between a 0.2% and a 1% chance of flooding in any given year. That might sound small, but over the course of a 30-year mortgage, these properties, according to FEMA, have between a 6% and 26% chance of being inundated by a flood. And flood insurance is not mandatory as a condition of obtaining a property loan in these moderate-risk flood zones.

Consumers need to understand that their property may still be at risk for flooding even if they do not live in a special flood hazard area and are not required to purchase it. They also need to understand that flood insurance can be relatively inexpensive, especially when the property is not in the highest-risk flood zones. There are options available to them, from both the NFIP and the private flood insurance market. And they can purchase lower limits of coverage; they do not need to insure the full replacement cost of their home if they do not wish to do so. Purchasing just \$20,000 of coverage, for example, might go a long way in the event of a flood and may be cheaper to purchase than believed. Further, renters can buy policies that cover only their personal property and not the dwelling that they rent.

There are also many consumers under the misconception that flood damage will be covered by their homeowners insurance policy or rental insurance policy. Therefore, they are unaware of their actual flood risk, and they learn that they are uninsured for this catastrophic peril only after a flood event for which they have no coverage.

State DOIs, as well as the NAIC, are launching consumer outreach programs to help address this coverage gap.

Some states now require a flood disclosure with homeowners policies. For example, Texas recently passed a law requiring a conspicuous disclosure when homeowners policies do not include flood coverage.

The NAIC Communications Department has also launched a flood campaign this year to inform consumers of the importance of purchasing flood insurance, either private flood insurance or flood insurance provided by the NFIP. Additionally, the NAIC recently released a [special section of its website](#) dedicated to educating consumers about the risks of flooding and what kinds of coverage options are available to protect against those risks.

Finally, the NAIC's Transparency and Readability of Consumer Information (C) Working Group has created both a basic flood insurance document and several graphic materials containing flood facts, to be used by DOIs for consumer outreach via social media.

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<sup>9</sup> <https://riskcenter.wharton.upenn.edu/wp-content/uploads/2018/07/Emerging-Flood-Insurance-Market-Report.pdf> and state DOIs.

### Listing Private Flood Insurance Writers on a DOI Website

While many DOIs include information regarding NFIP policies on their websites, some states, including Florida, Louisiana, New Jersey and Pennsylvania, provide a list of private flood insurance writers and their contact information on their websites.

It is worthwhile to note that surplus lines writers are generally not listed by the line of business they write. However, it has been suggested that there would be value for the states to provide information regarding which surplus lines writers are writing residential private flood insurance. Pennsylvania lists the surplus lines producers placing residential flood insurance on its website.

### Collecting Residential Private Flood Insurance Data

Florida and Texas both collect comprehensive data regarding residential private flood insurance.<sup>10</sup> As described previously, the NAIC has been collecting private flood insurance data since the data year 2016. Before that, the private flood insurance line was not a separate entry in the annual statement. While residential and commercial private flood insurance are not separated in the property/casualty (P/C) annual statement blank, the NAIC, through its Property and Casualty Insurance (C) Committee, is considering enhancements to the annual statement that would require insurers to report the residential private flood insurance premiums and commercial private flood insurance premiums independently. The Surplus Lines (C) Task Force is considering similar changes to alien surplus lines private flood insurance data that is reported to the International Insurers Department (IID).

The Wholesale & Specialty Insurance Association (WSIA) is also providing the Reinsurance Association of America (RAA) with data regarding surplus lines insurance. The RAA is working on an open source database that provides information regarding private flood insurance.

These changes would allow state insurance regulators and FEMA to better measure the growth of the private residential flood insurance market.

## AGENT AND LENDER ACTIONS

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### Continuing Education and Producer Licensing Requirements

FEMA requires all insurance producers licensed in property, casualty or personal lines of authority who sell flood insurance through the NFIP to complete a one-time course, as required by the federal Flood Insurance Reform Act of 2004. This is also the only educational requirement in many states.

At least one state has increased the weighting of the flood insurance questions on their producer licensing exam.

### Agent Education

Selling flood insurance requires an agent to understand the intricacies of NFIP and private flood insurance policies.<sup>11</sup>

When purchasing insurance, many times the insurance agent is the consumer's first point of contact. Therefore, it would be valuable if an agent could explain the risks of flooding, even if a consumer does not own or rent property in a high-risk flood zone. Recent flood events remind us that where it can rain, it can flood, and many floods occur outside of a high-risk flood zone. If agents help to educate the consumer, it will help eliminate the cost of inaction, as the occurrence of a flood event could be financially unbearable for homeowners or renters if they are not insured or are underinsured. It is critical

<sup>10</sup> <https://riskcenter.wharton.upenn.edu/wp-content/uploads/2018/07/Emerging-Flood-Insurance-Market-Report.pdf>.

<sup>11</sup> [www.floods.org/ace-files/documentlibrary/committees/Insurance/Emerging\\_Flood\\_Insurance\\_Market\\_Report-Wharton-07-13-18.pdf](http://www.floods.org/ace-files/documentlibrary/committees/Insurance/Emerging_Flood_Insurance_Market_Report-Wharton-07-13-18.pdf).

for agents to make a special effort to educate homeowners regarding the need for flood insurance, even if a business or home is not located in a high-risk flood zone.

DOIs can provide agents with information that they have learned as a result of a flood event, and they can foster agent education by requiring CE requirements to improve an agent's knowledge of flood insurance.

Other states' adoption of such practices would likely improve agents' knowledge of flood insurance, therefore helping their clients to obtain more effective flood coverage, whether through the NFIP or the private market.

### Lender Education

A large percentage of Americans have a mortgage on their home. Therefore, lender education is another opportunity for consumer flood insurance education. Recent catastrophic flooding events have illustrated that floods can happen anywhere. Therefore, it may be in the best interest of homeowners to purchase flood insurance even if they do not live in a high-risk flood zone.

While state insurance regulators do not have the authority to regulate lenders, lenders should still be educated regarding the importance of flood insurance. When navigating the loan process, lenders do not always discuss purchasing flood insurance unless the borrower's home is in a high-risk flood zone. A discussion about purchasing flood insurance even if the homeowner does not live in a high-risk flood zone should ideally be addressed with the borrower.

DOIs can raise awareness regarding flood insurance by bringing agents, consumers, lenders, FEMA, private flood insurance writers, etc. together in communities to discuss the importance of a homeowner purchasing flood insurance.

## MARKET UNCERTAINTY AND THE DEVELOPMENT OF A PRIVATE FLOOD INSURANCE MARKET

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The May 2019 CRS report, "Private Flood Insurance and the National Flood Insurance Program," identified some of the barriers to the development of a private flood insurance market. Some of the barriers identified in the report include: 1) regulatory uncertainty; and 2) continuous coverage.

Most directly relevant for the NAIC members is the notion of regulatory uncertainty, which is covered below. The remaining topics will be addressed in Appendix II.

In 2016, the U.S. experienced several major flood catastrophes, causing billions of dollars in property losses.<sup>12</sup> Following these storms, it was found that somewhere between 50% and 80% of these losses were not insured, which implies that communities are unable to bounce back quickly following large catastrophic events.

Floods are expected to cost U.S. households \$20 billion each year<sup>13</sup>. An Insurance Information Institute (I.I.I.) survey indicated that 15% of American homeowners had a flood insurance policy in 2018<sup>14</sup> and that there were approximately 5.18 million flood insurance policies held by the NFIP.<sup>15</sup> Milliman estimates the potential private residential flood insurance market to represent between \$34 billion and

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<sup>12</sup> <https://www.pewtrusts.org/en/research-and-analysis/articles/2017/02/01/flooding-disasters-cost-billions-in-2016>

<sup>13</sup> Milliman

<sup>14</sup> <https://www.iii.org/fact-statistic/facts-statistics-flood-insurance>

<sup>15</sup> <https://www.fema.gov/total-policies-force-calendar-year>

\$48 billion in direct written premium.<sup>16</sup> This data clearly indicates an opportunity for growth in the residential private flood insurance market in the U.S.

Recently, comments have surfaced regarding the possibility of the residential private flood insurance market cherry-picking their risks. It is important to remember the NFIP was meant to be a temporary solution that was put into place 50 years ago due to private insurers not insuring flood. While the NFIP is important, every state has some type of residual market that aids in insuring and providing flood insurance coverage for those who are unable to obtain flood insurance coverage available in the market. While not directly related to flood insurance, two good examples of successful residual markets are Florida Citizens and Louisiana Citizens. As the market has grown and shrunk in both Florida and Louisiana, both Florida Citizens and Louisiana Citizens needed to and provided a safe and reliable source of insurance for consumers. The NFIP can continue to evolve and do the same thing. Milliman believes Risk Rating 2.0 will help the NFIP and provide helpful information regarding the actual risk of a flood insurance policy; however, it was recently announced that the implementation of Risk Rating 2.0 will be delayed until Oct. 1, 2021 to allow for more analysis of its impact.

Milliman is of the opinion that a private market can coexist alongside the NFIP. Private flood insurance can be written in the admitted and non-admitted market. However, it needs to be determined if the guaranty funds will cover flood insurance in the admitted market, as flood may be excluded in many states.

Many private insurers have not serviced or written flood insurance policies. Additionally, private insurers do not have access to historical data; this poses a problem. It will be important to balance the need to protect consumers against the need to promote the private flood insurance market.

New entrants to the private flood insurance market are likely to purchase significant amounts of reinsurance. Flood insurance is inherently high-risk and volatile, so insurers may require higher amounts of profit and contingencies built into rates than for a typical homeowner's insurance product. States allowing these options might make it easier for an insurer to offer private flood insurance. For example, Wisconsin has no limitations or requirements for reinsurance cost and profit provision assumptions.

The issue of continuous coverage is problematic. In order for an NFIP policyholder to preserve any subsidies provided by the NFIP, a policyholder is required to have continuous flood insurance coverage. Currently, a policyholder loses subsidies or cross-subsidies when private flood insurance is purchased, if the policyholder chooses to return to the NFIP.

Unless there is legislation in place allowing private flood insurance to be deemed as continuous coverage, homeowners may be averse to purchasing private flood insurance. Homeowners do not want to find themselves in a situation causing them to lose their subsidy should they elect to return to the NFIP for flood insurance coverage. While legislation has been introduced in the U.S. House of Representatives allowing private flood insurance to count towards continuous coverage, legislation has yet to be passed.

The availability of private flood insurance provides the added benefit of increasing consumer choice. As private insurers are entering the flood insurance market, some of the policies offered are providing broader coverage than that provided by the NFIP. Additionally, some policyholders are finding private flood insurance policies to be less expensive than those offered by the NFIP.<sup>17</sup>

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<sup>16</sup> Milliman

<sup>17</sup> Congressional Research Service report, "Private Flood Insurance and the National Flood Insurance Program, May 7, 2019

## SUMMARY

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In the past few years, many states have experienced catastrophic flooding. Following the flood events, it has become even more apparent that a significant number of consumers are either uninsured or underinsured for the flood peril.

While the NFIP still writes a majority of the residential flood insurance policies, there are considerable opportunities for the development of the residential private flood insurance market.

This document provides details about how a few states have put procedures in place to enhance the private flood insurance market in a state. These procedures include: 1) supporting private flood insurance legislation and initiatives; 2) tailoring rate and form requirements for residential private flood insurance products; and 3) consumer, agent and lender education.

It is noteworthy to say that the states experiencing large flooding events have seen growth in the private flood insurance market regardless of any other actions. For example, following Hurricane Harvey, Texas saw growth in its residential private flood insurance market. Catastrophic events are a reminder to consumers of the devastation caused by flooding.

While there are several barriers for the residential private flood insurance market, the most significant barrier for private insurers may be uncertainty about the state regulatory environment.

The attached appendices discuss steps that Florida has taken in its approach to cultivate the private residential flood insurance market and discussion of other barriers to the entrance of residential private flood insurers.

## Appendix I – Actions Florida Has Taken

### FLORIDA'S FORM FILING PROCESS EXAMPLE

Florida reviews form filings, providing flood coverage differently based on the type of flood coverage being provided.

#### Subject to the Requirements of Florida's Flood Statute

*The coverage provided under the policy must meet one of the definitions of type of flood coverage, as defined by S. 627.715, F.S. Of the five defined types, "standard," "preferred" and "customized" are defined to meet or exceed the coverage provided by the standard NFIP policy. "Flexible" flood insurance must cover losses from the peril of "flood" as defined by the statute, but it does not have to provide coverage comparable to the entire NFIP policy. "Supplemental" flood coverage is meant to supplement an NFIP or private flood policy. Policies that fall under these definitions may have certain provisions that differ from that which would otherwise be required if not written under the flood statute.*

#### Items Not Subject to the Requirements of Florida's Flood Statute

*The coverage does not have to meet or exceed the coverage provided by the standard NFIP policy. However, the provisions of the flood statute that allow changes to the form and rate requirements, as well as allowing for a certification provided by the Florida OIR, do not apply. This means that forms and rates would be subject to all the requirements of Florida law, and the coverage does not have to meet the definition of "flood" under the statute.*

***Florida's private flood insurance statute, S. 627.715 F.S., does not apply to the commercial lines market. Forms providing commercial flood coverage must comply with all applicable Florida laws.***

### REVIEW OF FLORIDA'S FORM FILING PROCESS

#### How the Florida OIR Reviews Form Filings Subject to its Flood Statute

The Florida OIR coordinates with FEMA about training to educate forms analysts about the details and nuances of a federal NFIP policy. Forms analysts:

- Review the policy or endorsement and compare it to the NFIP policy.
- Review the provisions of the underlying policy that are not superseded by changes made in the endorsement.
- Make sure that the flood coverage in total (including definitions, deductibles, limits, conditions, property not covered, exclusions, etc.) are as broad as that provided under the NFIP policy.
- Exclude provisions, specific to the NFIP, that would not make sense to be in a private company's policy.

#### State Law Conflict

There are certain provisions in the federal private flood definition that may conflict with a state's law.

For example, the statute of limitations under the standard NFIP policy is one year after the date of denial. In Florida, the statute of limitations for most claims is five years from the date of loss. The insurer could use the standard NFIP provision, or the insurer could use a provision such as one year after the date of denial of a claim or five years from the date of the loss, whichever is greater. The modified provision would be considered as providing better coverage.

Another potential area in which there could be conflict between the standard NFIP policy and state law is the requirement for notice of cancellation. The NFIP requires 45 days, which may be more or less than state provisions.

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

***The general filing requirement for forms is found in S. 627.410, F.S., which requires the Florida OIR to approve forms before use.***

***For commercial flood coverage, the insurer has the option to file the forms as informational pursuant to S. 627.4102, F.S.***

## **FLORIDA RATE PROCESS EXAMPLE**

*Florida allows insurers to offer personal residential flood insurance coverage that meets the requirements of the flood statute. Insurers may decide to either submit the rate filings subject to the normal filing requirements of review and approval or (until Oct. 1, 2025) submit the filing for informational purposes.*

*Personal residential flood insurance rates submitted for informational purposes are subject to examination by the Florida OIR for a period of two years from the effective date to determine if the rates are excessive, inadequate or unfairly discriminatory.*

*If the coverage does not meet the requirements of the “flood statute,” the rate filing is subject to the normal filing requirements of review and approval. Commercial non-residential property rates (including that for flood coverage) are informational due to a separate provision of Florida laws, and they are an exception to these filing requirements.*

## **FLORIDA FLOOD STATUTE – FLOOD POLICY TYPES**

*Florida’s flood statute (S. 627.715, F.S.) sets up five types of flood coverage that may be written using the special deviations allowed for flood insurance.*

- *Standard flood insurance (equivalent to coverage provided under the standard flood policy under the NFIP).*
- *Preferred flood insurance.*
- *Customized flood insurance.*
- *Flexible flood insurance.*
- *Supplemental flood insurance.*

*Flexible and supplemental coverage are the only flood coverage types under the statute that do not require flood insurance coverage to meet or exceed what is provided under the standard NIFP policy. Flexible coverage must provide coverage for the peril of flood as defined by the statute (which mirrors that of the NFIP). However, there are ancillary coverages that are not required to be provided.*

## **APPENDIX II – BARRIERS TO THE RESIDENTIAL PRIVATE FLOOD INSURANCE MARKET**

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### **Flood Coverage Being “At Least as Broad as” the NFIP**

Biggert-Waters specifies that private flood insurance satisfies the mandatory purchase mortgage requirement when a private flood insurance policy affords coverage that is “at least as broad as” the coverage offered by an NFIP flood insurance policy.<sup>18</sup>

Many property owners are not required to purchase flood insurance because their home is outside of a Special Flood Hazard Area (SFHA) or because they do not have a federally backed mortgage. Lenders may accept private flood insurance that meets the “discretionary acceptance” definition, which states that lending institutions may accept private flood insurance policies that do not meet the “mandatory acceptance” requirements, provided that certain conditions are met, such as that the policy provides sufficient protection of the loan, consistent with general safety and soundness principles.<sup>19</sup> This distinction may be important for insurers with a product designed with higher-deductible options and/or a shorter cancellation notice for nonpayment of premiums.

Since there was not a federal banking rule in place regarding private flood insurance following the passage of Biggert-Waters, it was challenging to implement the use of private flood insurance for the mandatory purchase mortgage requirement. Some lending institutions thought that they did not have the knowledge necessary to assess whether a flood insurance policy met the definition of private flood insurance set forth in Biggert-Waters.

The federal banking rule became effective July 1, 2019. The rule fulfills the condition in Biggert-Waters that regulated lending institutions accept private flood insurance policies satisfying the conditions specified in the Act. Furthermore, the federal banking rule allows lending institutions to accept an insurer’s written assurances stated in a private flood insurance policy that the appropriate criteria is met. The rule also permits lending institutions to accept some flood insurance coverage plans provided by mutual aid societies.

Theoretically, the federal banking rule removes the acceptance of private flood insurance as a barrier to the private flood insurance market. However, educating the banking industry is clearly still needed as state insurance regulators are still hearing that lenders are telling borrowers that the only flood insurance policy that is acceptable is an NFIP flood policy. Thus, further education regarding the federal banking rule needs to be done. States may want to consider drafting a bulletin that can be used for these purposes.

### **Continuous Coverage**

If an NFIP policy holder lets an NFIP policy lapse, by either not paying premium or going to a private flood insurer, any subsidy the NFIP policy holder would have received is immediately eliminated.<sup>20</sup> Legislation currently being considered by Congress to reauthorize the NFIP includes the ability of policyholders to leave the NFIP in order to purchase a private flood insurance policy and then return to the NFIP without penalty.

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<sup>18</sup> 42 U.S.C §4012a(b).

<sup>19</sup> Ibid

<sup>20</sup> As required by §100205(a)(1)(B) of Biggert-Waters (P.L. 112-141, 126 Stat. 917), only for NFIP policies that lapsed in coverage as a result of the deliberate choice of the policyholder.

## Non-Compete Clause

FEMA dropped its non-compete clause in 2018. FEMA now allows Write Your Own (WYO) companies to sell NFIP policies. Therefore, this is no longer a barrier.

## NFIP Subsidized Rates

One of the hurdles facing private flood insurance growth involves the NFIP's subsidized rates, as NFIP premiums do not always reflect the full risk of flooding. NFIP rates allow certain policyholders to have more affordable premiums. Additionally, NFIP rates do not incorporate profit, which is an important element for private flood insurers.<sup>21</sup> Private flood insurers need to charge rates that represent the full risk of the peril.<sup>22</sup>

If the NFIP were to reform its rate structure to collect full-risk rates, it might result in the encouragement of more private insurers to write policies in the private flood insurance market. Full-risk NFIP rates would fall closer to what a private insurer would charge. It is important to note that full-risk rates would likely lead to higher rates than those that currently exist.<sup>23</sup>

Presently, FEMA is in the process of redesigning its rating system. The new NFIP rating system will be known as Risk Rating 2.0. This new rating structure will add replacement cost value and consider the distance between a property and a source of water. Additionally, Risk Rating 2.0 takes into consideration things that are not reflected in the current rating structure, such as intense rainfall.<sup>24</sup> As stated previously it was recently announced that Risk Rating 2.0 will be delayed until Oct. 1, 2021 to allow for more analysis on its impact.

## Ability to Assess Flood Risk Accurately

On June 11, 2019, the NFIP released data on flood losses and claims. Prior to the release of this data, insurers viewed the lack of access to NFIP data on flood losses and claims as a barrier for private companies offering flood insurance.

For private flood insurers to manage and diversify their risk exposure, consumer participation to manage and diversify their risk exposure is required. Many private insurers have expressed the view that broader participation in the flood insurance market would be necessary to address adverse selection and maintain a sufficiently large risk pool.<sup>25</sup>

An established goal of the NFIP is to increase the number of flood insurance policies in force. Even though there is a mandatory purchase requirement for homeowners to purchase flood insurance in certain flood zones, this does not always occur.

As more insurers begin to write private flood insurance, it is likely that consumers will be offered more choices. Private flood insurers may also offer coverages not available through the NFIP. These coverages might include coverage such as basement coverage, business interruption, additional living expenses, etc. Private insurers might also be able to offer higher coverage limits than those offered by the NFIP.

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<sup>21</sup> [www.floods.org/ace-files/documentlibrary/committees/Insurance/Emerging\\_Flood\\_Insurance\\_Market\\_Report-Wharton-07-13-18.pdf](http://www.floods.org/ace-files/documentlibrary/committees/Insurance/Emerging_Flood_Insurance_Market_Report-Wharton-07-13-18.pdf).

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> GAO, Jan. 22, 2014. "Flood Insurance: Strategies for Increasing Private Sector Involvement," 14–127, accessed online at <https://www.gao.gov/products/GAO-14-127>.

Private flood insurance offered as an endorsement to a standard homeowners insurance policy could possibly eliminate instances where it is necessary to differentiate between flood and wind damage.<sup>26</sup>

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<sup>26</sup> CRS, May 7, 2019, "Private Flood Insurance and the National Flood Insurance Program," accessed online at [https://www.everycrsreport.com/files/20190507\\_R45242\\_968aced5ccda33b36e57f26022e80552ffa6f32d.pdf](https://www.everycrsreport.com/files/20190507_R45242_968aced5ccda33b36e57f26022e80552ffa6f32d.pdf)




SBP

Zack Rosenberg, Co-Founder & CEO, SBP

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## History & Mission



Every disaster survivor has a breaking point which is determined by:

- ☒ The amount of time recovery takes
- ☒ The predictability of the recovery
- ☒ The vertical and horizontal resilience of each survivor

**Our mission is to prevent survivors from reaching their breaking point by shrinking the time between disaster and recovery.**



Lower Ninth Ward, 2006

2

3

## SBP's Strategic Interventions



**BUILD**

**SHARE**

**PREPARE**

**ADVISE**

**ADVOCATE**

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4

## Corporate Partnerships: SBP + Zurich



- + Creation of SBP's Disaster Resilience and Recovery Lab (curricula + targets for training)
- + eLearning modules - creation and distribution
- + Government advisory
- + Advocacy (Recovery Acceleration Fund, OneApp, and FEMA)
- + Community Rating System

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## Impact



**Joseph Oquin, 74**  
Houston, TX



To be completed: Dec .2019

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## SBP + NAIC: Partnership Proposal



- ☒ 1. **Pre disaster:** Partner before disasters to help your communities better understand and mitigate risk ahead of disasters.
- ☒ 2. **Post disaster:** Leverage SBP's turnkey educational and advocacy materials to help survivors recover more quickly after disasters.

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# Thank You

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Presentation Template: [SlidesCarnival](#)

7



American Property Casualty Insurance Association™

# Underinsurance in the Property Market

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

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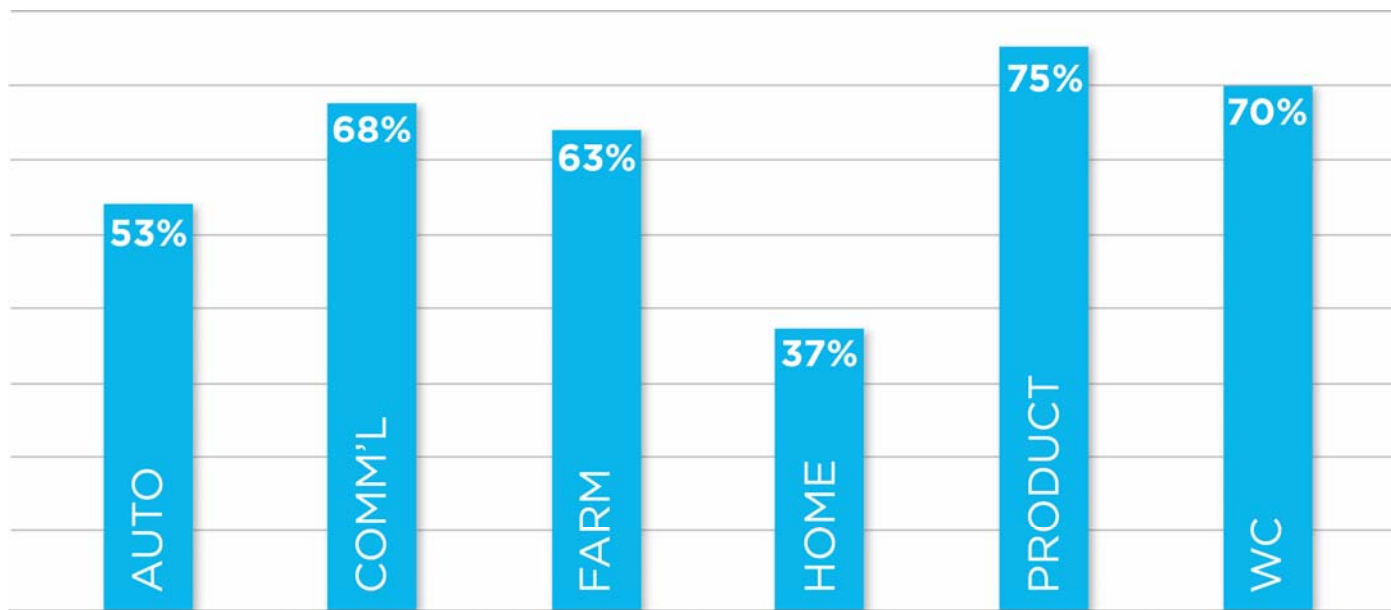
David Snyder

Vice President, International Policy and Counsel



American Property Casualty Insurance Association™

## Member market share\*

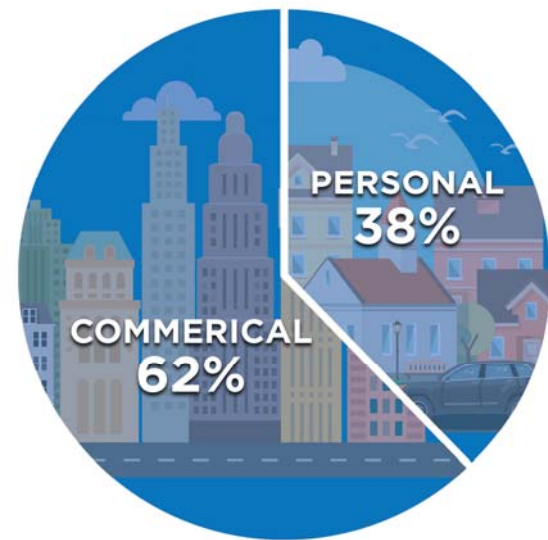
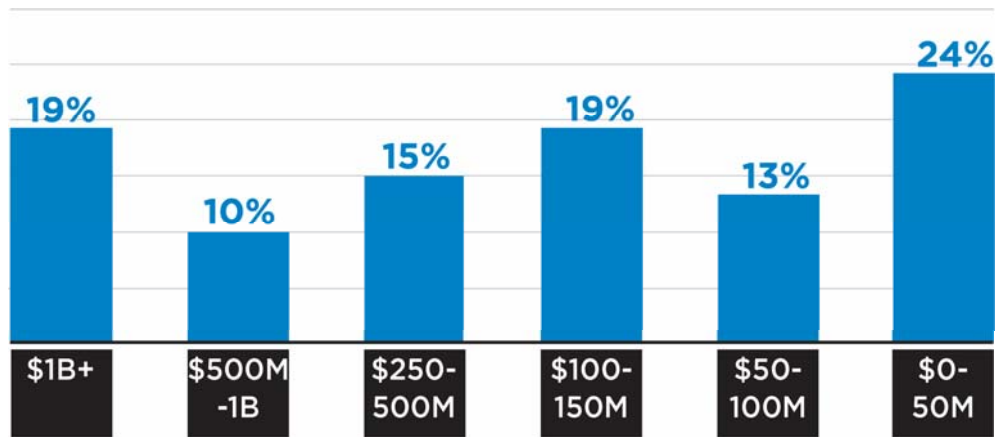


\*Based on companies reporting to NAIC



American Property Casualty Insurance Association™

## Represents groups of all sizes





American Property Casualty Insurance Association™

## NAIC Spring Meeting Additional Remarks

- United Policyholders' Amy Bach included numerous statements about underinsurance with which we agree
- Federal Insurance Advisory Council (FACI) subcommittee – Also looking at this problem
- Following most major events – and even individual total losses – underinsurance is an issue
- Or lack of coverage at all - Hurricane Harvey – 75% of the losses – NOT insured for flood, and not “required” to purchase
- Property valuation is the responsibility of the property owner – working with the insurer



## Underinsurance – “Coverage A” Structure Issues

- Property valuation is difficult – and NOT the same, as Ms. Bach has pointed out, as market value
- Careful calculations and considerations – with the policyholder or purchaser – to determine the “correct” amount.
  - Actual cash value is the standard, but most HO-3 (Homeowners form) policies are “replacement cost”
  - Insurers often offer “extended replacement cost” that provides up to an additional 25% in most cases to help address the underinsurance issue
  - Doesn’t help if there’s: an addition, “new” bathrooms, “new” kitchen or other significant changes to the home
  - Revised building codes also add to reconstruction costs



## Underinsurance – “Coverage A” Structure Issues

- Most insurers - include “inflation guard” coverage to address increasing materials and labor costs
  - Adjusted annually, based on the local, actual costs of building materials and labor in the areas
  - Many insurers ask policyholders annually – Any additions? Updates? Substantial structural changes (e.g., new roof, additions to living space, etc.)
  - Policyholders should review their policy annually, with their agent/company
  - Discuss and identify – any significant changes?
  - Does the “Coverage A” amount make sense?
- Insurers also conduct “insurance to value” (ITV) campaigns!



## Underinsurance – “Coverage A” Structure Issues

- “New” construction less costly than “reconstruction”
- Often – when doing repairs or replacement – property owners “upgrade” – NOT included in policy
- Balance is the key
  - Too much coverage creates moral hazard
  - Too little creates underinsurance issues
- Insurers and policyholders need to work together!
- All policies are NOT created equal – educate/compare!



## Flood Insurance

- Flooding is the most common disaster in the US and can occur almost anywhere in the country
- The NFIP has just over 5 million policyholders
- CoreLogic estimates that 29 million homes have “moderate to severe” risk of flood loss
- 1” of water can cause \$25,000 in damages to your home
- “Do I have to buy it?” – still the biggest question for agents!
- Where it rains it can flood – and Mother Nature doesn’t pay attention to map lines – no matter who draws them!



## Flood Insurance - Continued

- Flood insurance – typically must be purchased separately (NFIP)
  - Maximum limits may not be enough
  - Misperception of risk – “It won’t happen to me!”
  - Modernization needed – rating algorithm from the 70s
- NFIP needs to be stable (now in its 14<sup>th</sup> short-term extension)
- Private sector has started to write:
  - Doubled premium in the past two years... but barely a dent!
  - Despite comments – industry is NOT “cherry-picking” the risks
  - Lenders can accept private flood to meet “mandatory purchase requirement (as of July 1, 2019)
  - Consumers now have choices – and can get broader coverage!



## Wildfires

- The wildfire/urban interface (WUI) is significant as California's urban expansion continues
- Nonrenewal rates have increased – but this cycle happens after every major “catastrophe”
  - Insurers evaluate their risks and conflagration issues
  - Reinsurers also scrutinize ceded primary business
- New California Wildfire Fund for utility companies will help
  - Requires utilities to provide maintenance and mitigation plans
  - Publicizes the issues for property owners as well
- But California isn't the only state with this problem



## So what is the industry doing?

- Supportive of NFIP revamp – and a long-term reauthorization
  - Risk Rating 2.0
  - Modernize policy language
  - Modernize mapping
  - Changes to claims procedures – the “customer experience”
  - Moonshot
    - Double the number of properties with flood insurance by 2022
    - Quadruple the dollars spent on mitigation efforts over the same period
- Consumer education is key
  - 98% of the counties in the U.S. have experienced flooding
  - Federal grants – average payout following Harvey: \$4,200
  - Flood insurance – average payout following Harvey: \$113,000



## So what is the industry doing? APCIA in particular?

- Thought Leadership Plans – Flood, Wildfires, Terrorism, and...
- Resiliency/mitigation
  - State and local program
  - Federal appropriations
  - Develop coalition partnerships
- Again, education and knowledge is the key
- Consumers need to UNDERSTAND and ACCEPT their RISK!
- Only then can they make the right decisions on mitigation, products, coverage and costs.



## What can regulators do?

- Adopt innovative tools to allow new and unique products in the marketplace for catastrophe perils
  - Protect the consumer, but allow for options
  - An example could be parametric insurance products
- Develop education campaigns in conjunction with the industry
- Conduct informational meetings/town halls around the state to increase awareness – we would help!
- Meet with state and local officials to support and provide mitigation to reduce potential losses
- Risk-aware consumers = risk-aware communities = policy purchases and property protected!



American Property Casualty Insurance Association™

## **Bridge the Insurance Gap**

As a country – we need to make sure our citizens are better protected and everyone in this room can make a difference!

Thank you for your time!

Dave Snyder