ROLL CALL

Alan McClain, Chair                         Arkansas                James J. Donelon       Louisiana
Grace Arnold, Co-Vice Chair                 Minnesota              Mike Chaney            Mississippi
Larry D. Deiter, Co-Vice Chair             South Dakota            Chris Nicolopoulos    New Hampshire
Mark Fowler                                Alabama                 Jennifer Catechis     New Mexico
Ricardo Lara                                California              Glen Mulready        Oklahoma
Andrew N. Mais                              Connecticut            Kevin Gaffney         Vermont
Gordon I. Ito                               Hawaii                  Allan L. McVey        West Virginia
Amy L. Beard                                Indiana

NAIC Support Staff: Aaron Brandenburg

AGENDA

1. Consider Adoption of its 2022 Fall National Meeting Minutes  Attachment One
   
   —Commissioner Alan McClain (AR)

2. Consider Adoption of its Task Force and Working Group Reports  Attachment Two
   
   A. Casualty Actuarial and Statistical (C) Task Force  
   —Commissioner Chris Nicolopoulos (NH)
   B. Surplus Lines (C) Task Force—Commissioner James J. Donelon (LA)
   C. Title Insurance (C) Task Force—Director Eric Dunning (NE)
   D. Workers’ Compensation (C) Task Force  
   —Commissioner Alan McClain (AR)
   E. Cannabis Insurance (C) Working Group  
   —Commissioner Ricardo Lara (CA)
   F. Catastrophe Insurance (C) Working Group  
   —Director Chlora Lindley-Myers (MO)
   G. Terrorism Insurance Implementation (C) Working Group  
   —Martha Lees (NY)
   H. Transparency and Readability of Consumer Information (C) Working Group—Joy Hatchette (MD)
3. Consider Adoption of Revisions to the *Nonadmitted Insurance Model Act* (#870)—*Commissioner James J. Donelon* (LA)  

Attachment Three

4. Hear Presentations Related to Insurance Availability and Affordability for Nonprofit Organizations—*Commissioner Alan McClain* (AR)  
   A. Nonprofits Insurance Alliance (NIA)—*Chris Reed* (NIA)  
   B. National Association of Mutual Insurance Companies (NAMIC)  
      —*Andrew Pauley* (NAMIC)  

Attachment Four

5. Hear from States and the NAIC about Data Sources and Uses—*Commissioner Alan McClain* (AR)  
   A. Michael Yaworsky (FL)  
   B. Jo LeDuc (MO)  
   C. Aaron Brandenburg (NAIC)  

Attachment Five

6. Discuss Any Other Matters Brought Before the Committee  
   —*Commissioner Alan McClain* (AR)
The Property and Casualty Insurance (C) Committee met in Tampa, FL, Dec. 15, 2022. The following Committee members participated: Mike Chaney, Chair, represented by David Browning (MS); Alan McClain, Co-Vice Chair (AR); Anita G. Fox, Co-Vice Chair (MI); Mark Fowler (AL); Ricardo Lara represented by Ken Allen (CA); Andrew N. Mais and George Bradner (CT); Trinidad Navarro represented by Susan Jennette (DE); Colin M. Hayashida represented by Martha Im and Patrick P. Lo (HI); Vicki Schmidt and Julie Holmes (KS); James J. Donelon represented by Chuck Myers (LA); Chris Nicolopoulos represented by Christian Citarella and Emily Doherty (NH); Glen Mulready (OK); Larry D. Deiter (SD); Tregenza A. Roach represented by Cheryl Charleswell (VI); and Allan L. McVey (WV). Also participating were: Eric Dunning (NE); Martha Lees (NY); and Eric Slavich (WA).

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

Director Fox made a motion, seconded by Commissioner McVey, to adopt the Committee’s Aug. 12 minutes (see NAIC Proceedings – Summer 2022, Property and Casualty Insurance (C) Committee). The motion passed unanimously.

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

Slavich said the Casualty Actuarial and Statistical (C) Task Force met Nov. 8 and took the following action: 1) heard that the Statistical Data (C) Working Group adopted accelerated timelines for the future Auto Insurance Database Report (Auto Report) and the Dwelling, Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner’s Insurance Report (Homeowners Report); 2) adopted a new loss cost multiplier (LCM) form to replace multiple LCM forms and adopted an accompanying memorandum; and 3) exposed a proposal to eliminate the NAIC Expense Constant Supplement for a 45-day public comment period ending Dec. 22. He also reported that the Task Force continues to meet in regulator-to-regulator sessions to discuss rate filing issues, and it has held three book club calls since the Summer National Meeting to discuss various modeling trends.

Myers said the Surplus Lines (C) Task Force adopted revisions to the International Insurance Department (IID) Plan of Operation and has been working with a drafting group on revisions to the Nonadmitted Insurance Model Act (#870). The drafting group has exposed the model twice for public comment, and it is close to finalizing the model.

Director Dunning reported that the Title Insurance (C) Task Force met Dec. 14 to continue efforts to better understand how Attorney Opinion Letter (AOL) products interplay with state insurance regulations by hearing a presentation from real estate tech firm Vaxtur Analytics Corp. Vaxtur offers a new AOL product backed by a surplus lines liability insurance policy. State insurance regulators have begun seeing AOL products enter their markets since the Federal National Mortgage Association (FNMA) and the U.S. Department of Veterans Affairs (VA) announced this year that they would accept AOLs in lieu of a title insurance policy. The change in guidelines was to support the housing market by allowing lenders to offer alternatives to title insurance. The Task Force also heard a presentation on closing trends, including results from the American Land Title Association's (ALTA's) recent digital closing survey. About one-third of title transactions are done using remote online notarization (RON). While the number of companies using RON decreased in 2021, use is expected to grow, with 20% of companies indicating that they plan to begin offering RON within the next two years.
Draft Pending Adoption

Commissioner McClain said the Workers’ Compensation (C) Task Force met Nov. 15 to hear a presentation from the National Council on Compensation Insurance (NCCI) about federal issues and decreasing loss costs. The Fair Labor Standards Act (FLSA) issued a call for comments for a proposed rule regarding whether workers are employees or independent contractors. The proposed rule would limit the use of “independent contractor,” and it states that if an employee is economically dependent, they are classified as an employee and are therefore entitled to workers’ compensation.

Commissioner McClain said the recent workers’ compensation environment has been favorable to decreasing loss costs. Since payroll is the exposure base for workers’ compensation, as wages increase, premiums automatically increase. If the workers’ compensation benefits paid out increase at the same pace that wages and premiums increase, the system would be in balance. The recent environment indicates that benefits paid out are not keeping pace with the increase in premium. Therefore, the NCCI has been decreasing loss costs by 6% each year. The Task Force will continue to monitor what is happening with workers’ compensation premium. The Task Force adopted a new charge related to COVID-19 and teleworking. The Task Force will discuss the changing workforce in its next meeting, as well as how the changing demographics might affect workers’ compensation.

Allen said the Cannabis Insurance (C) Working Group met Nov. 29 to: 1) hold a panel discussion on recent federal and state legislative issues. The discussion included the impact of the federal pardon on simple marijuana possession. It also highlighted the importance of federal legislation addressing a safe harbor for the insurance industry; and 2) hear a status report on the drafting of the Understanding the Market for Cannabis Insurance: 2.0 white paper. The drafting group has continued to meet every few weeks, and the draft is nearly complete. It will continue to meet to update the draft paper for recent legislative activities. The goal is to expose the draft white paper before the 2023 Spring National Meeting and move for adoption during the 2023 Summer National Meeting.

Commissioner Mulready said the Catastrophe Insurance (C) Working Group and the NAIC/Federal Emergency Management Agency (FEMA) (C) Advisory Group met in joint session Dec. 12. David Maurstad (FEMA) gave an update regarding the status of the National Flood Insurance Program (NFIP), as well as the FEMA support following Hurricane Ian, including $3.7 billion in FEMA assistance. FEMA staff members also reported on training opportunities, as well as resources available to state insurance regulators. FEMA and Florida reported on how they coordinated to respond to Hurricane Ian. The NAIC continues to collaborate with FEMA, resulting in many states building valuable relationships with their regional FEMA colleagues. The Advisory Group is planning on setting up another regional meeting with some of the states in the Northeast hopefully in April.

Mulready said the Working Group recently sent out a survey to the states regarding wind/hail deductibles and trends states are seeing. More and more states are using percentage deductibles for wind/hail, like other named storm deductibles, as well as flat storm deductibles. The Working Group will continue to collect information from the states and discuss this issue, as consumers do not always understand the way these deductibles work or how their policy has changed. The Working Group also formed a drafting group to draft a Catastrophe Modeling Primer (Primer), which will provide basic information regarding catastrophe models. The Primer will be a bridge to the training being developed by the Catastrophe Modeling Center of Excellence (COE). The COE is fully staffed and has been participating in calls, which has proved to be very helpful.

Lees said the Terrorism Insurance Implementation (C) Working Group met Nov. 20 in virtual session to hear an update on workers’ compensation data related to terrorism risk. This market has remained relatively stable in terms of the percentage of premium allocated to terrorism risk, as well as average premiums.

Lees said the Working Group also heard an update on data received in the joint U.S. Department of the Treasury (Treasury Department)/state insurance regulator terrorism risk insurance data call. This data is received every May. The market appears relatively stable in terms of average premiums being up slightly and take-up rates
remaining somewhat flat. The slides are available on the Working Group’s website, and state insurance regulators can request from NAIC staff access to a Tableau tool to analyze the data in a variety of means.

Lees said the Working Group also discussed the 2023 terrorism risk insurance data call. Workers’ compensation data will be requested in the same manner and timing as in prior years. In early 2023, state insurance regulators will work with the Treasury Department to see if there will be any changes to the joint data call.

Bradner said the Transparency and Readability of Consumer Information (C) Working Group met Nov. 15 to: 1) adopt a consumer education document and a rate filing checklist; and 2) form a drafting group to draft a sample disclosure document regarding premium increases. The purpose of the premium disclosure is to help a consumer understand the reason or reasons their insurance premium has increased. The Washington State Office of the Insurance Commissioner is in the process of drafting a rule regarding premium disclosures. It received comments regarding the third iteration of its proposed rule in November. The drafting group plans to continue following Washington’s process to aid in its discussions; however, this does not mean the Working Group’s final document will be the document Washington chooses to use. The drafting group continues to work on this project and will keep having discussions about what this disclosure should include. Bradner also said the Working Group plans to revisit A Consumer’s Guide to Home Insurance, A Shopping Tool for Homeowners Insurance, A Consumer’s Guide to Auto Insurance, and the NAIC Consumer Shopping Tool for Auto Insurance in 2023. These documents were last updated in 2016 and need to be refreshed.

Director Fox made a motion, seconded by Commissioner Mais, to adopt the following task force and working group reports: Casualty Actuarial and Statistical (C) Task Force; Surplus Lines (C) Task Force; Title Insurance (C) Task Force; Workers’ Compensation (C) Task Force; Cannabis Insurance (C) Working Group (Attachment One); Catastrophe Insurance (C) Working Group (Attachment Two); Terrorism Insurance Implementation (C) Working Group (Attachment Three); and Transparency and Readability of Consumer Information (C) Working Group (Attachment Four). The motion passed unanimously.

3. **Adopted the Revised IID Plan of Operation**

Myers said the IID is the unit of the NAIC that is responsible for maintaining the Quarterly Listing of Alien Insurers. Non-U.S. insurers and Lloyd’s syndicates included on the Quarterly Listing of Alien Insurers are eligible to write surplus lines insurance throughout the U.S. The Quarterly Listing of Alien Insurers is also specifically mentioned in the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA) that was part of the larger federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The IID operates pursuant to its Plan of Operation, which was recently revised and essentially is a set of guidelines for non-U.S. insurers and Lloyd’s syndicates that write surplus lines business in the U.S. The Plan of Operation covers many areas, such as the application process and the core requirements and guidelines that must be met by the non-U.S. insurers and Lloyd’s syndicates, such as the minimum required equity and the establishment of a U.S. trust fund. Once on the Quarterly Listing of Alien Insurers, the Plan of Operation outlines the guidance to maintain the continued listing.

Myers said over the course of the past several months, the draft IID Plan of Operation was exposed twice by the Surplus Lines (C) Working Group. Comment letters were received and addressed during open sessions of the Working Group. The Working Group adopted the revised Plan of Operation on Dec. 7, and the Surplus Lines (C) Task Force adopted it on Dec. 12. Amendments to the Plan of Operation will become effective Jan. 1, 2023.

Myers made a motion, seconded by Commissioner Mulready, to adopt the revisions to the IID Plan of Operation (Attachment Five). The motion passed unanimously.
4. Adopted the Regulator Resources for Consumers on Personal Lines Pricing and Underwriting

Bradner said the consumer education information document, Regulator Resources for Consumers on Personal Lines Pricing and Underwriting, was adopted by the Transparency and Readability of Consumer Information (C) Working Group on Nov. 15. The document discusses rates, underwriting, and discounts for both homeowners and auto insurance. The purpose of the document is to provide departments of insurance (DOIs) with information they can use to educate consumers about homeowners and auto insurance premiums. The document is intended to be used to create consumer education bulletins, social media posts, and other documents to help consumers understand their home and auto insurance premiums. The document is not required to be used by a DOI.

Bradner made a motion, seconded by Director Fox, to adopt the Regulator Resources for Consumers on Personal Lines Pricing and Underwriting consumer education information document (Attachment Six). The motion passed unanimously.

5. Adopted the Rate/Rule Filing Checklist

Bradner said the Transparency and Readability of Consumer Information (C) Working Group adopted the Rate/Rule Filing Checklist on Nov. 15. The checklist is something a DOI can use with its rate/rule filings to help ensure that all necessary information is sent in with the filing. It was determined that many states do not have a rate checklist in place. Connecticut and Kansas both have checklists in place and have found them to be extremely helpful. The use of this checklist is not required, but it is available for DOIs that do not have something like this in place and find the checklist beneficial. The rate/rule filing checklist is based on the Kansas Rate/Rule Filing Checklist. It includes an additional question that is not on the Kansas checklist, which asks whether an insurer is using a rating model. There are times when insurers are using rate models and do not include the information in their rate filings; therefore, asking this question can be helpful because insurers sometimes do not think to mention it if not asked. Commissioner McVey said West Virginia uses a similar checklist, and he asked whether the checklist would be required of states. Bradner emphasized that the checklist is meant to be a resource for states.

Bradner made a motion, seconded by Director Fox, to adopt the Rate/Rule Filing Checklist (Attachment Seven). The motion passed unanimously.

6. Adopted its 2023 Proposed Charges

Commissioner McClain said the Committee’s 2023 proposed charges were posted on Nov. 21. He said there are three substantive additions to the charges directing the Committee to:

- Study and report on the availability and affordability of liability and property coverages for nonprofit entities.
- Develop property market data intelligence so state insurance regulators can better assess their markets, including looking at coverage gaps and changes to deductibles and coverage types, all of which also assist state insurance regulators in addressing affordability and availability issues.
- Look more deeply into telematics issues.

Commissioner McClain also said the Pet Insurance (C) Working Group will not be reappointed, as it has met its charge of drafting a model law.

Commissioner McVey said West Virginia has a state program to ensure that nonprofits have access to property and liability coverage. He said he will share the information with other states, as it will help in the new charge asking the Committee to study the availability and affordability of insurance for nonprofits.
Draft Pending Adoption

Commissioner Mulready made a motion, seconded by Commissioner McVey, to adopt the Committee’s 2023 proposed charges (Attachment Eight). The motion passed unanimously.

7. Heard a Federal Update

Brooke Stringer (NAIC) said the U.S. House of Representatives (House) passed a stopgap spending bill to give the U.S. Congress (Congress) an extra week to finish a $1.7 trillion year-end omnibus spending package. The NFIP extension continues to be tied to the annual spending bill.

Stringer said there are renewed efforts in Congress to move the Nonprofit Property Protection Act as part of Congress’s year-end spending bill. The NAIC has continually opposed this legislation that would expand the scope of the federal Liability Risk Retention Act (LRRA) to allow risk retention groups (RRGs) that write liability insurance for nonprofits to write commercial property insurance coverage. Unlike certain liability coverages in the 1980s, commercial property coverage is generally available, and the NAIC has expressed concerns that these nonprofit policyholders could be put at greater risk from a consumer protection standpoint if this legislation were enacted. She said it will be helpful if the Committee adopts a charge for 2023 to study the availability and affordability of liability and property coverage for nonprofit organizations.

Stringer said the Secure and Fair Enforcement (SAFE) Banking Act is still potentially in play for the omnibus, but hopes may be fading. The House has passed the SAFE Banking Act seven times. The NAIC supports the SAFE Banking Act, which would provide a safe harbor from violations of federal law for those engaged in the business of insurance participating in cannabis industry activity that is permissible under state law.

Stringer said the NAIC has been talking with U.S. Sen. John Hickenlooper’s (D-CO) staff, who are drafting legislation to create a federal government Cyber Insurance Working Group at the U.S. Department of Commerce (DOC), and they reached out to the NAIC for input/feedback. She said the NAIC is working to try to get a state insurance regulator on the federal working group.

Stringer said yesterday was the deadline for responding to the Treasury Department’s Request for Information (RFI) regarding, “Potential Federal Insurance Response to Catastrophic Cyber Incidents.” The NAIC did not submit a letter, but it does not believe cyber meets the standards for a federal backstop. As the Treasury Department and the Cybersecurity and Infrastructure Security Agency (CISA) assess the cyber insurance market, state insurance regulators look forward to continuing to engage with the NAIC’s federal partners, as well as Congress, which would ultimately have the responsibility to develop such a program if there is an appetite for it.

8. Heard Update on the Big Data and Artificial Intelligence (H) Working Group’s AI/ML PPA Public Report

Commissioner Gaffney said the 2021 Private Passenger Auto (PPA) Artificial Intelligence (AI)/Machine Learning (ML) survey was conducted to accomplish three primary goals: 1) to gain a better understanding of the insurance industry’s use and governance of big data and AI/ML; 2) to seek information that could aid in the development of guidance or a potential regulatory framework to support the insurance industry’s use of big data and AI/ML; and 3) to inform state insurance regulators as to the current and planned business practices of companies. The PPA survey was conducted under the market conduct examination authority of nine states: Connecticut, Illinois, Iowa, Louisiana, Nevada, North Dakota, Pennsylvania, Rhode Island, and Wisconsin. The survey was sent to larger companies, defined as those PPA writers with more than $75 million in 2020 direct premium written. The survey call letter was distributed on Sept. 28, 2021, and survey responses were requested by Oct. 28, 2021. A total of 193 responses were received, and almost 90% of those indicated that they are doing something pertaining to AI/ML.

The Big Data and Artificial Intelligence (H) Working Group website includes a memo and accompanying NAIC staff report and analysis with interesting findings. He reported that the results show information about the use of AI/ML
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in multiple insurer operations areas, such as claims, rating, and marketing. The data provides the level of decision making, such as whether the model’s answer is used with or without human intervention, whether models were developed in-house by an insurer or developed by a third-party vendor, and lists of the third-party vendors.

The survey results also address: 1) the type of data elements used by insurers by operational area; 2) how consumers are notified of the use of data and their ability to request a correction to the data being used; 3) how governance is documented in the company’s governance framework; and 4) some potential next steps, some of which are already in progress.

9. Heard a Presentation on Flood Insurance

Birny Birnbaum (Center for Economic Justice—CEJ) said the goals of a national strategy to address flood insurance should include educating consumers, businesses, and communities about the risk of flooding and mitigation decisions; promoting investment in resilience; moving towards universal coverage; and achieving fair pricing in flood insurance. He said FEMA and the NFIP work within the directives of Congress and do the best they can.

Birnbaum said flood is excluded from residential property insurance, and there are inequitable requirements of flood insurance. He said there is inefficient delivery of flood insurance, conflict-ridden claim settlements, inadequate purchase of flood insurance, and little use of the state-based regulatory system.

Birnbaum said federal maps, which take years to update, are failing to reflect the growing peril that Americans face. Maps determine who is currently required to purchase flood insurance. FEMA acknowledges that over 40% of NFIP claims made from 2017 to 2019 were for properties outside of official flood hazard zones. Despite decades of education, most consumers still do not know that flood is not covered under the homeowners policy, and when consumers are told they are outside of a special flood hazard area and are not required to buy flood insurance, they reasonably conclude that they do not need flood insurance. Withholding the true cost of protection and the cost of maintaining a property is not helpful and generates huge societal costs.

Birnbaum said NFIP premiums continue to provide subsidies to consumers who have the means to pay the risk-based price. According to FEMA, 49% of the NFIP premium goes to claims and claim settlement, and 30% goes to write-your-own (WYO) companies.

Birnbaum said a separate flood insurance policy requires the determination whether the damage is covered under the residential property insurance policy, the flood policy, or neither. In the case of the WYO carriers, this creates a conflict of interest in which they are asked to decide if the damage is covered under their policy or the NFIP policy. Tens of thousands of claims are filed and denied because consumers do not understand that flood damage is not covered by their residential property insurance policy.

Birnbaum said the NFIP and most private flood policies cap coverage at $250,000, which can be much lower than Coverage A on residential property insurance policies and effectively create massive flood insurance deductibles. He said claim settlement provisions for NFIP and surplus lines policies vary from the standard residential property insurance and limit state insurance regulator involvement. He noted that surplus lines private flood policies are not subject to rate or form supervision by state insurance regulators. He also said unlike other countries where private insurers provide flood insurance as part of risk-sharing partnerships with government and where private insurers are actively engaged in flood risk mitigation and resilience efforts, few insurers in the U.S. are so engaged.

Birnbaum said relatively few homeowners and businesses purchase flood insurance and consequently rely on disaster relief or savings to recover from flooding events. There are improper risk and price signals to individuals and businesses making investment decisions about property purchases. There are inadequate incentives for loss

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mitigation due to subsidized rates. Subsidies exist for consumers who do not need financial assistance and have a lack of or inadequate government assistance for those who need financial assistance to purchase flood insurance or invest in flood mitigation. Other problems include the lack of standard insurance consumer protections found in the state regulation of residential and commercial property insurance and the lack of a residual market for flood insurance, leaving force-placed flood insurance as the de facto residual market.

Birnbaum said there are ways to move forward, including a federal requirement for flood insurance for all federally-involved mortgages; a state requirement for inclusion of flood coverage in residential property insurance policies; turning flood insurance back to the states as with other property insurance; transforming the NFIP from a direct provider of flood insurance to a federal Terrorism Risk Insurance Act (TRIA)-like reinsurer for mega-flooding events with state-specific attachment points; and focusing federal resources on mapping, mitigation, resilience, and means-tested assistance to consumer-facing affordability issues.

Birnbaum said these actions would improve individual and community resilience through near-universal flood insurance and reduce the cost of flood coverage for most consumers. He said converting the NFIP to a reinsurance program would facilitate the private insurer provision of flood insurance by capping the current unlimited experience, similar to the Terrorism Risk Insurance Program (TRIP). A public-private partnership (PPP) that meaningfully engages the insurance industry will incentivize insurers for greater engagement in flood mitigation and resilience. Birnbaum said this would lead to more transparent and accurate prices to consumers and businesses; a greater opportunity to utilize the expertise of private insurers, reinsurers, and catastrophe modelers on flood risk identification and mitigation; more efficient and lower-cost delivery of flood coverage through a separate NFIP or private flood policy; lower costs through a larger, more diversified risk pool; federal financial assistance targeted to those in need; and state-based consumer protections for sales and claims settlement by insurance departments that have the experience and regulatory infrastructure to protect consumers and address market failures.

Birnbaum suggested that the NAIC and state insurance regulators should take a leadership role to guide Congress. He said the NAIC should work with legislators to address the structural problems within the NAIC and work with the federal government as a partner. He said state insurance regulators are experts in insurance markets and consumer protection, so they should take the lead in examining this proposal.

Director Fox asked whether Birnbaum is suggesting a federal reinsurance pool. Birnbaum said it would be similar to other federal reinsurance programs, like TRIP. Director Fox said there is a disparity in risks among the states. She said flood has been a risk that the private market could not price adequately. Birnbaum said the NFIP has conflicting requirements, and Congress mandates actuarial pricing but also subsidizes the risk so it encourages development where it should not occur. Birnbaum said his proposal would end those subsidies because the attachment point is based on a percentage of the total flood risk exposure in that particular state, making each state pay its fair share of the federal reinsurance backstop. The federal government could then focus its efforts on providing assistance where it is needed, instead of through a subsidy to the price.

Director Fox asked if there would be a requirement for properties to purchase flood insurance. Birnbaum said there would be a requirement of flood insurance for federally involved mortgages. Director Fox asked if property insurers would be required to offer flood coverage. Birnbaum said states would ideally require that flood be offered as part of the property insurance policy. He said flood insurance could be provided for a much smaller amount as part of a property policy than it currently is under the NFIP.

Commissioner Mulready asked if the attachment point would be a percentage of the state’s total risk. Birnbaum confirmed this and said state insurance regulators could collect the relevant data to assist the federal reinsurance program.
Draft Pending Adoption

John Huff (Association of Bermuda Insurers and Reinsurers—ABIR) said he agrees with Birnbaum on most points that it is time for a national dialogue on the future of flood insurance. He said only about 4% of national households have flood insurance, and there are often claims disputes over wind versus rain when a loss occurs. He said the Bermuda market will pay about $13 billion in losses related to Hurricane Ian, which includes commercial flood losses. He said the industry can model for flood losses. He said Florida passed reforms that include a flood mandate for Floridians who purchase their property coverage through the residual market of Citizens.

Birnbaum said when the NFIP was created, an argument could be made that insurers could not model it, but that is not the case today. There are models and capital available, as well as PPPs throughout the world.

David F. Snyder (American Property Casualty Insurers Association—APCIA) said the APCIA would be available to work with state insurance regulators on flood insurance issues. He said he is concerned with the political polarization within the country seeping into insurance regulation. He urged moderation among state insurance regulators and a focus on the core issue of solvency. He expressed thanks for the work state insurance regulators are doing with mitigation and playing a critical role in reducing losses. He said controlling losses is fundamental to insurance, and it also provides benefits to the public at large.

Having no further business, the Property and Casualty Insurance (C) Committee adjourned.
Virtual Meeting
(in lieu of meeting at the 2023 Spring National Meeting)

CASUALTY ACTUARIAL AND STATISTICAL (C) TASK FORCE
Tuesday, March 7, 2023
3:00 – 4:30 p.m. ET / 2:00 – 3:30 p.m. CT / 1:00 – 2:30 p.m. MT / 12:00 – 1:30 p.m. PT

Meeting Summary Report

The Casualty Actuarial and Statistical (C) Task Force met March 7, 2023. During this meeting, the Task Force:

1. Adopted its Jan. 31, 2023; Jan. 27, 2023; Jan. 10, 2023; Jan. 3, 2023; Dec. 9, 2022; and 2022 Fall National Meeting minutes, which included the following action:
   A. Exposed the Generalized Additive Models (GAM) appendix for a 45-day public comment period ending Feb. 24.
   B. Exposed the plan to eliminate the Expense Constant Supplement for a 45-day public comment period ending Dec. 22, 2022.
   C. Adopted the annual statistical reports.

2. Adopted the report of the Actuarial Opinion (C) Working Group, which met Jan. 26 and took the following action:

3. Adopted the report of the Statistical Data (C) Working Group, which met Feb. 23 and Jan. 25 and took the following action:
   B. Discussed the creation of dashboards for the Auto Insurance Database Report (Auto Report) and the Dwelling, Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner’s Insurance Report (Homeowners Report).
   C. Adopted the Auto Insurance Average Premium Supplement.
   D. Discussed potential changes to statistical reports.

4. Adopted the generalized additive models (GAMs) appendix regarding the regulatory review of GAMs.

5. Eliminated the Expense Constant Supplement.

6. Discussed a communication plan for the adopted NAIC loss cost multiplier (LCM) forms.

7. Heard reports from the American Academy of Actuaries’ (Academy’s) Committee on Property and Liability Financial Reporting (COPLFR) and Casualty Practice Council (CPC), the Actuarial Board for
Counseling and Discipline (ABCD), the Casualty Actuarial Society (CAS), and the Society of Actuaries (SOA) regarding current activities and research efforts.
2023 Spring National Meeting  
Louisville, Kentucky  

SURPLUS LINES (C) TASK FORCE  
Tuesday, March 21, 2023  
11:00 a.m. – 12:00 p.m.  

Meeting Summary Report  

The Surplus Lines (C) Task Force met March 21, 2023. During this meeting, the Task Force:  

1. Adopted its 2022 Fall National Meeting minutes.  

2. Adopted the report of the Surplus Lines (C) Working Group, which met March 9 in regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings, to approve one insurer for admittance to the NAIC Quarterly Listing of Alien Insurers.  

3. Adopted the draft Nonadmitted Insurance Model Act (#870) with an amendment to include a drafting note within Section 5D. Model #870 was modernized to align with the federal Nonadmitted and Reinsurance Reform Act (NRRA) of 2010. It was exposed for public comment on May 23 and Oct. 27, 2022, and Jan. 23, 2023.
Meeting Summary Report

The Title Insurance (C) Task Force met March 23, 2023. During this meeting, the Task Force:

1. Adopted its 2022 Fall National Meeting minutes.

2. Took a vote of consensus to postpone review of *Title Insurance Model Act* (#628), Section 15C pending the outcome of its consideration under the Model Law Review Initiative.

3. Heard an update on the information the Task Force requested from Voxtur following its presentation during the 2022 Fall National Meeting. On March 14, Voxtur told the Task Force chair and vice chair it was discussing internally methods of sharing the requested information that requires confidentiality.

4. Heard a presentation from the American Land Title Association (ALTA) on new movements in the title alternative space. Information included United Wholesale Mortgage’s alternative to the traditional lender title process and the Federal National Mortgage Association’s (Fannie Mae’s) pilot program on title insurance requirements.

5. Discussed adding additional questions to the *Survey of State Insurance Laws Regarding Title Data and Title Matters* before it is administered. The Task Force took a vote of consensus to add questions to the following sections: data reporting, policy rate and regulation, procedural regulation, and insurer-agent relationship. It also added a new category and questions for title opinion letters.
Draft Pending Adoption

Draft: 3/15/23

Workers’ Compensation (C) Task Force
Virtual Meeting (in lieu of meeting at the 2023 Spring National Meeting)
March 6, 2023

The Workers’ Compensation (C) Task Force met March 6, 2023. The following Task Force members participated: Alan McClain, Chair (AR); John F. King, Vice Chair, and Steve Manders (GA); Mark Fowler represented by Jimmy Gunn, Yada Horace, and Erick Wright (AL); Lori K. Wing-Heier represented by Alex Reno (AK); Ricardo Lara represented by Yvonne Hauscarriague, Giovanni Muzzarelli, Mitra Sanandajifar, and Sarah Ye (CA); Andrew N. Mais represented by George Bradner, Wanchin Chou, and Bridget Lamagdelaine (CT); Karima M. Woods represented by David Christhilf (DC); Gordon I. Ito represented by Randy Jacobson, Kathleen Nakasone, and Roland Teruya (HI); Doug Ommen represented by Mathew Cunningham (IA); Dean L. Cameron represented by Randy Pipal (ID); Vicki Schmidt represented by Chris Hollenbeck, Julie Holmes, Sara Hurtado, and Cassandra McCall (KS); Sharon P. Clark represented by Sue Hicks (KY); James J. Donelon represented by Tom Travis (LA); Gary D. Anderson represented by Bashiru Abubakare, Caleb Huntington, and Matthew Mancini (MA); Timothy N. Schott, Brock Bubar, Sandra Darby, and Robert Wake (ME); Grace Arnold represented by Sandra Anderson, Tammy Lohmann, and Phil Vigliaturo (MN); Chlora Lindley-Myers represented by Jo LeDuc (MO); Mike Causey represented by Tracy Biehn and Fred Fuller (NC); Marlene Caride represented by Carl Sornson (NJ); Scott Kipper represented by Gennyad Stolyarov (NV); Glen Mulready, Kim Hunter and Cuc Nguyen (OK); Andrew R. Stolfi represented by Alex Cheng and TK Keen (OR); Michael Humphreys, Mark Lersch, Lu Xiaofeng (PA); Shannon Kost, Michael McKenney, Dennis Sloat, and Eric Zhou (PA); Elizabeth Kelleher Dwyer represented by Beth Vollucci (RI); Larry D. Deiter and Tony Dorschner (SD); Kevin Gaffney, Rosemary Rasza, and Mary Richter (VT); and Allan L. McVey represented by Juanita Wimmer (WV). Also participating were: Kaylee Baumstark and Tom Zuppan (AZ); Lucretia Prince, Frank Pyle, and Jeffry Schott (DE); Patrick O’Connor (IN); Chris Arth, Paige Dickerson, Robyn Lowes, Tina Nacy, and Mandi Whinnie (MI); Bob Biskupiak (MT); Christian Citarella (NH); Anna Krylova (NM); Jessica Thomas (TN); Marianne Baker and Nicole Elliott (TX); Tracy Klausmeier (UT); and Rebecca Nichols (VA).

1. **Adopted its 2022 Fall National Meeting Minutes**

Sanandajifar said she had a couple of corrections to the Fall National Meeting minutes. The first item was to replace the word “depended” with “dependent” on page 2 in the third paragraph. The second item was to replace “combined ratio” with “premium” on page 2 in the last paragraph.

Commissioner King made a motion, seconded by Keen, to adopt the Task Force’s Fall National Meeting minutes as amended. The motion passed unanimously.

2. **Heard a Presentation from the IAIABC on Telework and how it is Affecting Workers’ Compensation**

Heather Lore (International Association of Industrial Accident Boards and Commissions—IAIABC) said she reached out to several state workers’ compensation administrators to ask how their jurisdictions are tracking teleworking injuries. She asked about injury frequencies, severity, premium, class codes, etc. Lore said of all those she talked to, no one is tracking information regarding workers’ compensation injuries experienced by teleworkers, making it challenging to understand the impact of telework on workers’ compensation.

Lore said telework will continue. She said McKinsey & Company’s study this spring estimated that 35% of job holders in the U.S. were offered the option to work from home full-time, and 58% of these workers can work from home at least part-time. Prior to the pandemic, approximately 6% of workers were able to work from home on a full-time basis.
Lore said the IAIABC has been teleworking on a full-time basis since March 2020 and does not plan to return to the office. She said prior to this time, all but one of the IAIABC staff worked full-time in the office. Lore asked the state insurance regulators on the call to share whether they allow telework and who determines the ability to telework.

O’Connor said the state of Indiana allows telework two days a week.

Gaffney said the state of Vermont had a well-established telework policy prior to the pandemic. He said in the past, it was mainly financial examiners who took advantage of teleworking, but others were also able to telework. The governor leaves the telework decision to the department heads to determine the level of telework. Gaffney said jobs might require more in-office and manual processes, so it is not a one size fits all solution. He said he leaves it up to each division to determine the telework processes, so it varies by team. Gaffney believes the implementation of telework has allowed the department to attract talent they would not otherwise have been able to attract. He said some needs still occur in the office, such as cross-training staff, skills training, and meeting with industry and other interested parties. Gaffney believes there are hazards that come with remote work that will need to be tracked as well.

King said he has broad authority regarding work schedules. He believes it is not a one size fits all solution, and each of the activities in the agencies requires tailoring and assessments. King said in the instance of brand-new employees, they need to start in the office to understand the culture and be trained. He said Georgia has a mechanism in place to track the performance of teleworkers.

The following states responded in the WebEx chat box:

- The Iowa Department of Insurance (DOI) allows teleworking for all employees, which was the commissioner’s decision based on what the governor has allowed for state employees.
- The Kansas DOI allows two remote workdays per week as approved by the division directors.
- The Kentucky DOI allows two days per week to telework, and the governor dictates the policy.
- The Missouri DOI allows limited remote work on a part-time basis for no more than two days per week.
- The Nevada DOI allows remote work for unclassified employees but not for classified employees. The new governor, Joe Lombardo, recently issued an order for state offices to return to “pre-pandemic working conditions” by July 1, 2023, but it is not certain whether this will alter the current arrangement in which classified employees need to work from the office, while unclassified employees have more flexibility.
- The Pennsylvania DOI allows telework two days a week for management and leadership, while the civil service and union are allowed to continue full-time telework.
- The South Dakota DOI has a few telework options, and division directors weigh each situation case by case.
- The Virginia DOI allows teleworking up to three days per week, and its agency decides the teleworking policy.
- The West Virginia Office of the Insurance Commissioner (OIC) do not allow telework. The governor left these decisions to each cabinet secretary, and they have determined that no remote or hybrid options will apply to the OIC.

Lore said it is difficult to discuss the frequency of workers’ compensation claims that occur while an employee is teleworking because jurisdictions are not actually tracking those employees who are teleworkers. She said none of the states she reached out to had plans to add new class codes. However, California did add a new class code for clerical teleworking employees in 2021. Lore said she was going to try and see what data California has available regarding this new class code.
Draft Pending Adoption

Lore said loss costs were generally higher for jobs that are unable to telecommute, such as retail, construction, transportation, and manufacturing. These jobs have higher claims frequency in general than telecommuting-optional clerical jobs. Lore said the hazards are likely not a lot different when an employee is working in the office or when they are working from home. In an office, employees might be getting up more from their desks to go to a conference room for a meeting, or getting up to talk to a colleague, but functionally the work itself is really the same.

Lore said several states mentioned they have concerns about the psychological issues of telecommuting employees, and while it is not something that is showing up in the data yet, it may be a lagging issue. She said we might see more psychological issues arise as people might be feeling more disconnected from the workplace, which may cause anxiety and depression to set in, particularly for people who are working full-time from home and do not have the same connections to their colleagues that they did when they were working in the office. Lore said most jurisdictions do not allow for mental-only claims, but it is possible we will start to see an increase in disputes regarding these types of injuries.

Lore asked if any of the states were seeing any frequency or severity trends they could report on for workers’ compensation or anything in states regarding premiums being affected. She asked if, anecdotally, states had seen any psychological impacts on their teleworking employees.

Stolyarov said in Nevada, they have seen a significant decrease in the loss costs for workers’ compensation since the beginning of the pandemic. He said he believes the shift to telework for many occupations has contributed to this decrease. Stolyarov said it is not a matter of work being different, but it could be a matter of the workplace setting being different. He said, understandably, there are some hazards at home as well as in the office, but from an intuitive standpoint there are less hazards because the worker has more control over the environment. He said someone in an office could put a cord somewhere in the hallway that creates a tripping hazard, whereas that likely would not happen in someone’s own home.

Lore said a couple of employees in her office did not have an office in their home, and therefore their ethernet port was on the opposite side of the home from their desk. She asked how we encourage employees to set up their home offices safely. Lore said while an employee does not have to set up an office per se, their workspace needs to be safe.

McKenney said he was hoping to discuss this topic in a meeting because the data is many years behind in workers’ compensation. He said Pennsylvania just got the most recent loss cost filing from their independent bureau, and it takes effect on April 1, 2023. McKenney said the most recent year in the experience was the policy year 2020, so he does not know what is happening and does not like the idea that he must wait for the results to come through the data.

McKenney said a lot of workers’ compensation is returned to work, as you are paying an injured person’s salary while they are not working, and it may be easier for a person to return to work if they are working from home. He said he is concerned that we are not getting, and taking account of, any of the positive impacts we are gaining from telework.

Lore said workers’ compensation data is slower to get, and therefore, it is a challenge that the data is not available.

Lore asked the various states what insurers require when writing a workers’ compensation policy. She asked if agencies require their employees to have a desk that is at a proper height, etc. Lore said she knows that one jurisdiction does conduct home office visits in which a safety coordinator goes to the teleworker’s home to make sure they have a safe and ergonomic workspace. She said that while this is not practical for all employers, some are having their employees send in pictures of their home workspace to make needed suggestions.
Lore said items to take into consideration regarding injuries at home include:

1. Is going to the kitchen to get lunch considered to be in the course of work?
2. Does the lack of witnesses to an injury cause potential friction?
3. Many jurisdictions have a coming-and-going rule, so a commute would generally not be covered. But if coming and going is covered, and a person falls down the stairs walking into their home office, is that covered?

Lore asked the Task Force if they have seen any compensability challenges in court regarding teleworking or denials specifically for teleworking injuries.

Lore said there is a lack of data and information regarding workers’ compensation injuries occurring in the course of telework. She said as an employer, she is looking at the requirements her business should begin complying with, including developing specific telework policies that provide necessary equipment lists and safety standards to ensure employees are working in a safe work environment. Lore asked the Task Force if their agencies have safety and equipment requirements for teleworking employees, how they are monitoring these requirements, if insurers require their policyholders to develop these written policies, and how else they might be mitigating the risk for teleworking employees. Answers in the chat included states having checklists for teleworkers and teleworking agreements.

Lore said there needs to be some data collected to better understand the impacts. She said the NAIC and the IAIABC have discussed the opportunity to collaborate on a paper that could dive deeper into this issue. McClain said he liked the idea of a collaborative white paper. King said Georgia is still assessing the data, and it is hard to predict when more data will be available, as it could be a year or longer before data is available.

King said telework will likely continue at the current rates because productivity is not being affected. He said they are not seeing a surge in claims but believes it is likely too early to tell what will transpire.

3. Heard a Presentation from the NCCI Regarding Presumptive Workers’ Compensation Benefits for Firefighters and Other First Responders

Jeff Eddinger (National Council of Compensation Insurance—NCCI) said numerous studies have examined the relationship between the job duties of firefighters and the contraction of certain diseases. He said these studies have provided varying conclusions, and the NCCI does not take a position on whether there is an actual correlation between the job duties of firefighters and these types of injuries.

Over the last decade, many states have enacted presumption laws for firefighters and other first responders. When a statutory presumption exists, and a worker meets certain requirements, the injury is presumed to have arisen out of and in the course of employment. More than a dozen states have introduced bills this year that would add some more types of cancers to the list of comprehensive injuries for first responders, such as police, firefighters, and emergency medical personnel. This has been a legislative trend in recent years as more states seek to expand benefits.

Eddinger said over the years, the NCCI has produced a white paper to provide information and insights on this topic to various stakeholders. This white paper was recently updated. The white paper outlines the different varieties of firefighter bills and some of the issues associated with them. The bills generally vary in two major respects, namely, the specific diseases that are covered and how certain restrictions may apply.
One of the diseases included in most of the firefighter bills is cancer. There can be either a broad definition of cancer or a specific list of cancers that would be covered. One of the issues with cancer is that it is a relatively common disease in the U.S., as well as being among one of the most expensive medical conditions. Another issue with cancer is that it tends to have a long latency period, so it may be difficult to tie back to a prior employment period.

A second common disease found in firefighter bills includes respiratory conditions. Chronic respiratory diseases are relatively common diseases, as they are the sixth leading cause of death in the U.S. Smoking can contribute to respiratory conditions and some states include a non-smokers clause in their legislation.

A third type of disease found in firefighter bills includes blood and infectious diseases. First responders often come into contact with diseases like HIV, AIDS, hepatitis, tuberculosis, and recently COVID-19. These diseases have a shorter latency period, so theoretically, there would be less of an impact for these types of diseases due to a presumption law because it might be easier to track when the exposure occurred.

A fourth type of disease found in the firefighter bills includes heart and vascular conditions, including high blood pressure and heart disease. Heart disease is prevalent among firefighters, and sudden cardiac arrest accounts for half of all on-the-job fatalities for firefighters. It is difficult to prove a link because lifestyle and family history play a large role in heart disease. Additionally, there could be some heart-related presumptions that have time restrictions, so there could be a minimum amount of time between the firefighter’s service and the episode for it to be eligible for a presumption.

Finally, the presumption being discussed most recently is mental injuries, which may expand to include things like Post-traumatic Stress Disorder (PTSD). At least 25 states recognize mental injuries, which are defined as mental injuries that arise without physical injuries. The NCCI is tracking this topic.

The other variabilities in these bills deal with different types of restrictions. Many times, these restrictions are service restrictions and time limitations, meaning that in order to qualify for a presumption, the employee must have served a minimum number of years to qualify. There may also be a limitation on the time after retirement or termination and could also be age restrictions. These presumptions may require health evaluations so that a pre-employment exam shows no pre-existing conditions for the types of diseases we have been discussing.

Furthermore, these presumption bills generally have wording on rebuttal presumptions. These presumptions are usually rebuttable presumptions that may be rebutted by a preponderance of the evidence.

Some additional considerations include voluntary firefighters. Some state statutes specifically exclude voluntary firefighters versus full-time firefighters. In those states where voluntary firefighters are included, it makes it more difficult to estimate the potential impact of one of these bills. A voluntary firefighter does not have set hours and there can be a variation of how much time they might actually spend being a firefighter.

Another issue is the potential shifts to coverage. Sometimes when these presumptions are put into place, there is a fear that the presumptions might open up or increase claims activity. Firefighters who do not self-insure may have difficulty finding workers’ compensation coverage in the voluntary market.

If a presumption is passed, there is also an unexpected impact on the judicial environment, meaning that just because of the uncertainty, there could be an increase in litigation.

Another important impact to consider is the retroactive impact. Once a presumption bill is put into place, any claims that are filed could end up coming from years prior to the effective date of that presumption, so there was no premium collected to cover past injuries.
The final issue the NCCI discusses in its white paper is the issue of estimating the impact of the proposed bills. The availability of data is one issue that makes it hard to estimate the impact of firefighter bills. Most firefighters are employed by municipalities or other entities that self-insure, and this data is not reported to the NCCI. Additionally, there is the issue of the long latency of some of the diseases, meaning the data will not be available for many years. Even when the data does exist, it is impossible to differentiate between claims that were compensable under presumption versus just general standards.

The NCCI will continue to track these bills. The NCCI’s newly updated white paper that includes additional information can be found on the NCCI’s website.

Having no further business, the Workers’ Compensation (C) Task Force adjourned.

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2023 Spring National Meeting
Louisville, Kentucky

JOINT MEETING OF THE CATASTROPHE INSURANCE (C) WORKING GROUP
AND THE NAIC/FEDERAL EMERGENCY MANAGEMENT (FEMA) (C) ADVISORY GROUP
Tuesday, March 21, 2023
3:30 – 5:00 p.m.

Meeting Summary Report

The Catastrophe Insurance (C) Working Group and the NAIC/Federal Emergency Management (FEMA)(C) Advisory Group met in joint session March 21, 2023. During this meeting, the Working Group and the Advisory Group:

1. Adopted its 2022 Fall National Meeting minutes.

2. Heard an update on federal legislation. The National Flood Insurance Program (NFIP) has had 25 reauthorizations since 2017. Risk Rating 2.0, affordability, and NFIP reauthorization are all being discussed. FEMA has experienced declines in reinsurance due to the hardening market.

3. Heard an update on the Catastrophe Modeling Primer (Primer) progress. The drafting group has met several times and is making progress. Currently, several sections have been drafted, including: the purpose of the Primer; background information on catastrophe modeling; “What is a Catastrophe Model?”; “Why Use a Catastrophe Model?”; model components; key metrics; and the regulator’s perspective. The drafting group will meet following the Spring National Meeting to continue its drafting work.

4. Heard updates regarding the activities of state and FEMA regional workshops. FEMA Region 1 will meet in Massachusetts on the afternoon of May 22 and all day on May 23. The purpose of the meeting is to help departments of insurance (DOIs) form relationships with their FEMA partners. FEMA Region 2 and FEMA Region 3 will hold meetings at a later date.

5. Heard a presentation regarding the National Oceanic and Atmospheric Administration (NOAA) Weather Radio. Information was provided regarding the importance of using weather radios, as well as the availability of the radios through the FEMA Hazard Mitigation Grant Program (HMGP).

6. Held a panel discussion regarding homeowners deductible trends. There was a panelist representing consumers, a panelist representing insurers, and a panelist representing state insurance regulators. The panel discussed the types of deductibles trending, the importance of mitigation, and a policyholder’s understanding of their homeowners insurance policy.
The Transparency and Readability of Consumer Information (C) Working Group of the Property and Casualty Insurance (C) Committee conducted an e-vote that concluded March 15, 2023. The following Working Group members participated: Ken Allen (CA); Bobbie Baca (CO); George Bradner (CT); Julie Rachford (IL); Chris Hollenbeck (KS); Ron Henderson (LA); Carrie Couch (MO); Cuc Nguyen (OK); Rachel Chester (RI); Jennifer Ramcharan (TN); and Marianne Baker (TX).

1. Adopted its 2022 Fall National Meeting Minutes

The Working Group considered adoption of its Nov. 15, 2022, minutes.

A majority of the Working Group members voted in favor of adopting its Nov. 15, 2022, minutes (see NAIC Proceedings – Fall 2022, Property and Casualty Insurance (C) Committee, Attachment Four). The motion passed.

Having no further business, the Transparency and Readability of Consumer Information (C) Working Group adjourned.
Adopted by the Surplus Lines (C) Task Force, March 21, 2023

NONADMITTED INSURANCE MODEL ACT

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Section 1. Short Title

This Act shall be known and may be cited as “The Nonadmitted Insurance Act.”

Section 2. Purpose—Necessity for Regulation

This Act shall be liberally construed and applied to promote its underlying purposes which include:

A. Protecting persons seeking insurance in this state;
B. Permitting surplus lines insurance to be placed with reputable and financially sound nonadmitted insurers and exported from this state pursuant to this Act;
C. Establishing a system of regulation which will permit orderly access to surplus lines insurance in this state and encourage admitted insurers to provide new and innovative types of insurance available to consumers in this state;
D. Providing a system through which persons may purchase insurance other than surplus lines insurance, from nonadmitted insurers pursuant to this Act;
E. Protecting revenues of this state; and
F. Providing a system pursuant to this Act which subjects nonadmitted insurance activities in this state to the jurisdiction of the insurance commissioner and state and federal courts in suits by or on behalf of the state.

Section 3. Definitions

As used in this Act:

A. “Admitted insurer” means an insurer licensed to do business in the state.

B. “Affiliate” means, with respect to an insured, any entity that controls, is controlled by, or is under common control with the insured.

C. “Affiliated group” means any group of entities that are all affiliated.

D. “Capital,” as used in the financial requirements of Section 5, means funds paid in for stock or other evidence of ownership.
“Commissioner” means the insurance commissioner of [insert name of state], or the commissioner’s deputies or staff, or the [insert title of chief insurance regulatory official] of any other state. 

Drafting Note: Insert the title of the chief insurance regulatory official wherever the term “commissioner” appears.

“Control” means with respect to an insured:

1. A person, either directly or indirectly, or acting through one or more other persons, owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity; or

2. The entity controls in any manner the election of a majority of the directors or trustees of the other entity.

[OPTIONAL: “Domestic surplus lines insurer” means a surplus lines insurer domiciled in this state that may write insurance in this state on a surplus lines basis domiciled in another state.

“Eligible surplus lines insurer” means a nonadmitted insurer with which a surplus lines licensee may place surplus lines insurance pursuant to Section 5 of this Act.

“Exempt commercial purchaser” means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

1. Has paid aggregate nationwide commercial property and casualty insurance premiums in excess of $100,000 in the immediately preceding 12 months; and

2. (a) The person meets at least one of the following criteria:
   (i) Possesses a net worth in excess of $20,000,000;
   (ii) Generates annual revenues in excess of $50,000,000;
   (iii) Employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than 1,000 employees in the aggregate;
   (iv) Is a not-for-profit organization or public entity generating annual budgeted expenditures of at least $30,000,000; or
   (v) Is a municipality with a population in excess of 50,000 persons.

   (b) Effective on July 21, 2010, every five years and each fifth January 1 occurring thereafter on January 1, the amounts in subsections (i), (ii), and (iv) of Subparagraph (a) of this Paragraph shall be adjusted to reflect the percentage change for such five-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

“Export” means to place surplus lines insurance with a nonadmitted insurer.

“Foreign decree” means any decree or order in equity of a court located in any United States jurisdiction, including a federal court of the United States, against any person engaging in the transaction of insurance in this state.

“Home state” means with respect to an insured, means:

Drafting Note: Their definition of “Exempt commercial purchaser” follows the language of the federal Nonadmitted and Reinsurance Reform Act (NRRA). Some states have chosen not to adopt the inflation adjustment. The NRRA uses the term “municipality,” which some states may find limiting. States may choose to use terminology consistent with state law to expand this provision to include counties and other public entities.

Export

Foreign decree

Home state
(1) The state in which an insured maintains its principal place of business or, in the case of a natural person, the person’s principal place of residence;

(2) If 100 percent of the insured risk is located out of the state referred to in subParagraph (1) Section 3J(1), the state to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated; or

(3) If the insured is an affiliated group with more than one member listed as a named insured on a single nonadmitted insurance contract, the home state is the home state of the member of the affiliated group that has the largest percentage of premium attributed to it under the insurance contract; or

(4) [Option 1] In the case of an unaffiliated group policy:

(a) If a group policyholder pays 100% of the premium from its own funds, then the home state is determined according to paragraphs (1) and (2).

(b) If a group policyholder does not pay 100% of the premium from its own funds, then the home state is determined according to paragraphs (1) and (2) for each member of the group.

[Option 2] In the case of an unaffiliated group policy, the home state shall be the home state of the group policyholder as determined by the application of paragraphs (1) and (2).

Comment: The NRRA definition of “home state” includes Subsections Paragraphs (1), (2), and (3) of Section 3J. The NRRA definition does not expressly cover unaffiliated groups. States have taken different approaches to the taxation of unaffiliated group policies. Some states tax based on the “home state” of the group policyholder. Other states tax based on the “home state” of the group member or certificate holder under the unaffiliated group policy. Some states assess tax on the “home state” of the person that pays the premium. Not all states have an express provision to address unaffiliated group policies. The Drafting Group could not arrive at language to address each possibility and opted to omit it from the Model, such as risk purchasing groups. Model language contains two options for addition of that are expressly covering unaffiliated group treating the members of such a group as individual insureds for purposes of placement and taxation.

K. “Insurer” means any person, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyds insurer, insurance exchange syndicate, fraternal benefit society, and any other legal entity engaged in the business of insurance.

H. “Kind of insurance” means one of the types of insurance required to be reported in the annual statement which must be filed with the commissioner by admitted insurers.

K. “Nonadmitted insurance” means any insurance written on properties, risks or exposures, located or to be performed in this state, by an insurer not licensed to engage in the transaction business of insurance in this state [or a domestic surplus lines insurer].

L.J. “Nonadmitted insurer” means an insurer not licensed to engage in the transaction business of insurance business in this state but does not include a risk retention group pursuant to the Federal Liability Risk Retention Act of 1986.

M.J. “Person” means any natural person or other business entity, including, but not limited to, individuals, partnerships, associations, trusts or corporations.

N. “Premium” means any payment made as consideration for an insurance contract.

O. “Principal place of business” means:

(1) The state where a person maintains its headquarters and where the person’s high-level officers direct, control, and coordinate the business activities; or

(2) If the person’s high-level officers direct, control, and coordinate the business activities in more than one state, or if the person’s principal place of business is located outside any state, then it is the state
PQ. “Principal residence” means:

(1) The state where the person resides for the greatest number of days during a calendar year; or

(2) If the person’s principal residence is located outside any state, the state to which the greatest percentage of the person’s taxable premium for that insurance contract is allocated.

Q.RN. “Surplus lines insurance” means any property and casualty insurance in this state on properties, risks or exposures, located or to be performed in this state, permitted to be placed through a surplus lines licensee with an nonadmitted insurer eligible surplus lines insurer to accept such insurance, pursuant to Section 5 of this Act.

Drafting Note: If a state chooses to adopt the alternative Section 5B, this definition of “surplus lines insurance” should be consistent with the acceptable coverage listed in Section 5B. States may choose to extend the definition of “surplus lines insurance” beyond property/casualty insurance NAIC.

RS. “Surplus lines insurer” means a nonadmitted [or domestic surplus lines] insurer that is eligible to accept the placement of surplus lines insurance pursuant to Section 5 of this Act.

STO. “Surplus lines licensee” means any person individual, firm or corporation licensed under Section 5 of this Act to place surplus lines insurance on properties, risks or exposures located or to be performed in this state with an nonadmitted insurer eligible surplus lines insurer to accept such insurance.

TU. “Taxable premium” means any premium less return premium that is not otherwise exempt from tax pursuant to this Act. [OPTIONAL: Premium on property risk or exposure that is properly allocated to federal or international waters or is under the jurisdiction of a foreign government is not taxable in this state.]

UVS. “Transaction of insurance”

(b) (1) For purposes of this Act, any of the following acts in this state effected by mail or otherwise by a nonadmitted insurer or by any person acting with the actual or apparent authority of the insurer, on behalf of the insurer, is deemed to constitute the transaction of an insurance business in or from this state:

(a) The making of or proposing to make, as an insurer, an insurance contract;
(b) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety;

(c) The taking or receiving of an application for insurance;
(d) The receiving or collection of any premium, commission, membership fees, assessments,
dues or other consideration for insurance or any part thereof;

(e) The issuance or delivery in this state of contracts of insurance to residents of this state or to persons authorized to do business in this state;

(f) The solicitation, negotiation, procurement or effectuation of insurance or renewals thereof;

(g) The dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, the fixing of rates or investigation or adjustment of claims or losses or the transaction of matters subsequent to effectuation of the contract and arising out of it, or any other manner of representing or assisting a person or insurer in the transaction of risks with respect to properties, risks or exposures located or to be performed in this state;

(h) The transaction of any kind of insurance business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance;

(i) The offering of insurance or the transacting of insurance business; or

(j) Offering an agreement or contract which purports to alter, amend or void coverage of an insurance contract.

(2) The provisions of this subsection shall not operate to prohibit employees, officers, directors or partners of a commercial insured from acting in the capacity of an insurance manager or buyer in placing insurance on behalf of the employer, provided that the person’s compensation is not based on buying insurance.

(3) The venue of an act committed by mail is at the point location where the matter transmitted by mail is delivered or issued for delivery or takes effect.

Drafting Note: States may need to alter this subsection to reflect their decision as to whether they intend to permit citizens to directly purchase coverage within the state from a nonadmitted insurer, or if self-procurement of coverage will be permitted only when it occurs outside the state. States electing to allow direct procurement will need to insert an appropriate exemption in Section 4A of this Act. Additionally, states should consider whether the preceding definition of “transaction of insurance” is consistent with other statutory definitions of this phrase in the state. Finally, states may want to consider whether group insurance purchases or the maintenance of insurance books and records in this state should fall within the scope of the definition of “transaction of insurance.”

Q. “Type of insurance” means coverage afforded under the particular policy that is being placed.

VT. “Wet marine and transportation insurance” means:

(1) Insurance upon vessels, crafts, hulls and other interests in them or with relation to them;

(2) Insurance of marine builder’s risks, marine war risks and contracts of marine protection and indemnity insurance;

(3) Insurance of freight and disbursements pertaining to a subject of insurance within the scope of this subsection; and

(4) Insurance of personal property and interests therein, in the course of exportation from or importation into any country, or in the course of transportation coastwise or on inland waters, including transportation by land, water or air from point of origin to final destination, in connection with any and all risks or perils of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any incidental delays, transshipment, or reshipment; provided, however, that insurance of personal property and interests therein shall not be considered wet marine and transportation insurance if the property has:
(a) Been transported solely by land; or
(b) Reached its final destination as specified in the bill of lading or other shipping document; or
(c) The insured no longer has an insurable interest in the property.

Comment: The language added in 1994 to the end of the definition of “wet marine and transportation insurance” (Subparagraphs 4(a), 4(b), and 4(c)) is intended to clarify the scope of the definition, which ultimately affects the exemption of certain risks from this Act. The 1994 amendments address current regulatory concerns and concerns raised by those who drafted the 1983 amendments to the Model Surplus Lines Law. The 1983 drafters wrote: “Several [drafters] felt the term ‘storage’ should not appear in... [the wet marine definition] to ensure that warehousemen and other types of insurance covering risks of storage are not interpreted to be within the purview of this definition. The term ‘delays’ is sufficiently broad to cover temporary storage while in the course of transit.”

Drafting Note: In addition to the definitions provided in this section, individual states may wish to consider adopting definitions for “agent,” “broker” or “producer” in a manner consistent with its other laws. Additionally, states may want to cross-reference the definition of “insurance” as it appears elsewhere in the state insurance code. The definition of insurance should reach illegal unauthorized activities.

Section 4. Placement of Insurance Business

A. An insurer shall not engage in the transaction of insurance unless authorized by a license in force pursuant to the laws of this state, or exempted by this Act or otherwise exempted by the insurance laws of this state.

B. A person shall not directly or indirectly engage in a transaction of insurance with or on behalf of or shall in this state directly or indirectly act as agent for, or otherwise represent or aid on behalf of another, a nonadmitted insurer in this state in the solicitation, negotiation, procurement or effectuation of insurance, or renewals thereof, or forwarding of applications, or delivery of policies or contracts or inspection of risks, or fixing of rates, or investigation or adjustment of claims or losses, or collection or forwarding of premiums, or in any other manner represent or assist the insurer in the transaction of insurance.

C. A person who represents or aids a nonadmitted insurer in violation of this section shall be subject to the penalties set forth in Section 7 of this Act. No insurance contract entered into in violation of this section shall preclude the insured from enforcing his rights under the contract of insurance and the laws of this state, to the same degree those rights would have been enforceable had the contract been lawfully procured.

D. If the nonadmitted insurer fails to pay a claim or loss within the provisions of the insurance contract and the laws of this state, a person who assisted or in any manner aided directly or indirectly in the procurement of the insurance contract, shall be liable to the insured for the full amount under the provisions of the insurance contract.

E. Section 4B or 4D shall not apply to a person in regard to an insured who independently procures insurance as provided under Section 6. This section shall not apply to a person, properly licensed as an agent or broker in this state who, for a fee and pursuant to a written agreement, is engaged solely to offer to the insured advice, counsel or opinion, or service with respect to the benefits, advantages or disadvantages promised under any proposed or in-force policy of insurance if the person does not, directly or indirectly, participate in the solicitation, negotiation or procurement of insurance on behalf of the insured.

Drafting Note: If a state collects tax on unlicensed transactions which violate this Act, it may consider imposing liability for payment of those taxes on persons who violate this Act by assisting in the procurement of nonadmitted insurance.

Drafting Note: Some states permit other licensed professionals to engage in these activities as provided in their insurance statutes or other state statutes. Those states may want to amend Section 4E to include those professionals, to the extent they act within the scope of their licenses.
F. This section shall not apply to a person acting in material compliance with the insurance laws of this state in the placement of the types of insurance identified in Paragraphs (1), (2), (3) and (4) below:

1. Surplus lines insurance as provided in Section 5. For the purposes of this subsection, a licensee shall be deemed to be in material compliance with the insurance laws of this state, unless the licensee committed a violation of Section 5 that proximately caused loss to the insured;

2. Transactions for which a certificate of authority to do business is not required of an insurer under the insurance laws of this state;

Drafting Note: A number of states exempt from licensing and premium taxation nonprofit educational insurers insuring only nonprofit educational institutions and their employees. Some states require certificates of authority while others require licensing, and the appropriate language should be used in Paragraph (2) above. Additionally, some states may want to consider adding language to establish an option of allowing persons to file for an exemption with the Department of Insurance.

3. Reinsurance provided that, unless the commissioner waives the requirements of this subsection:

   a. The assuming insurer is authorized to do engage in the business of insurance or reinsurance business by in its domiciliary jurisdiction and is authorized to write the type of reinsurance in its domiciliary jurisdiction; and

   b. The assuming insurer satisfies all legal requirements for such reinsurance in the state of domicile of the ceding insurer;

4. The property and operation of railroads or aircraft engaged in interstate or foreign commerce, wet marine and transportation insurance;

5. Transactions subsequent to issuance of a policy not covering properties, risks or exposures located, or to be performed in this state at the time of issuance, and lawfully solicited, written or delivered outside this state.

Drafting Note: States may also wish to consider exempting from Section 4A of this Act self-procured insurance or industrial insurance purchased by a sophisticated buyer who does not necessarily require the same regulatory protections as an average insurance buyer. Additionally, some states allow other insurance transactions with nonadmitted insurers. Examples include certain aviation and railroad risks. Other states may want to narrow the scope of the exemptions above or reserve the right to approve exemptions on a case-by-case basis.

Section 5. Surplus Lines Insurance

A. Surplus lines insurance may be placed by a surplus lines licensee if:

1. Each insurer is an eligible to write surplus lines insurance; and

2. Each insurer is authorized to write the type of insurance in its domiciliary jurisdiction; and

3. Other than for exempt commercial purchasers, the full amount or type of insurance cannot be obtained from insurers who are admitted to do engage in the business of insurance in this state. The full amount or type of insurance may be procured from eligible surplus lines insurers, provided that a diligent search is made among the insurers who are admitted to transact and are actually writing the particular type of insurance in this state if any are writing it; and

4. All other requirements of this Act are met.

Drafting Note: States may prefer to reference “kind of insurance” rather than “type of insurance” in Section 5A(3). The term utilized should be defined within the Act. The diligent search requirement of Section 5A(3) must be satisfied in accordance with the statutes and regulations of the governing state. Such Diligent search statutes and regulations might vary from state to state in terms of the number of declinations required and the person designated to conduct the search. Several states permit surplus lines placement without a diligent search for or without regard to the availability of admitted coverage. States may want to
consider changing diligent search requirements in light of electronic transactions. Section 5A(3) does not prohibit a regulatory system in which a surplus lines licensee may place with an eligible nonadmitted insurer any coverage listed on a current export list maintained by the commissioner. The export list would identify types of insurance for which no admitted market exists. The commissioner may waive the diligent search requirement for any such type of insurance.

Drafting Note: Utilizing the “full amount” standard in Section 5A(3) of this Act may have certain market implications. An alternative to this approach would be to require that whatever part of the coverage is attainable through the admitted market be placed in the admitted market and only the excess part of the coverage may be exported.

B. Subject to Section 5A(3) of this Act, a surplus lines licensee may place any coverage with an eligible surplus lines insurer eligible to accept the insurance, unless specifically prohibited by the laws of this state.

[Alternative Subsection B]

CB. Subject to Section 5A(3) of this Act, a surplus lines licensee may place only the following types of coverage with an eligible surplus lines insurer eligible to accept insurance: (list acceptable coverage.)

Drafting Note: The two statutory alternatives described in Section 5B represent different regulatory approaches to defining those coverages which may be placed in the nonadmitted market and they would impact the admitted market in different manners.

C. A surplus lines licensee shall not place surplus lines insurance coverage with a nonadmitted insurer, unless, at the time of placement, the surplus lines licensee has determined that the nonadmitted insurer is eligible to write surplus lines insurance under one of the following subsections:

1. Has established satisfactory evidence of good repute and financial integrity; and

2. Qualifies to be eligible to write surplus lines insurance under one of the following subparagraphs:

   a. For a nonadmitted insurer domiciled in another United States jurisprudence, the insurer shall have both of the following:

      i. The authority to write the type of insurance in its domiciliary jurisdiction; and

      ii. Has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction which equals the greater of:

         1. The minimum capital and surplus requirements under the law of this state; or

         2. $15,000,000;

Drafting Note: States that have not previously increased capital and surplus requirements may wish to consider implementation of the capital and surplus requirements in this subparagraph in a series of phases over a period of up to three (3) years. In some circumstances, implementation of a $15,000,000 capital and surplus requirement may represent a dramatic increase over existing requirements. States may wish to allow insurers which are eligible under existing law some period of time to increase their capital and surplus to meet the new standards. Current numbering is retained in this Model to remain consistent with the reference within the NRRA.

   i. The requirements of Subparagraph (b)(i) may be satisfied by an insurer possessing less than the minimum capital and surplus upon an affirmative finding of
acceptability by the commissioner. The finding shall be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability and company record and reputation within the industry. In no event shall the commissioner make an affirmative finding of acceptability when the nonadmitted insurer’s capital and surplus is less than $4,500,000; or

(a)—For a nonadmitted insurer domiciled outside the United States, the insurer shall be listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the National Association of Insurance Commissioners (NAIC); or

(b)

(c) For an insurer domiciled in this state, the insurer is a domestic surplus lines insurer.

(b) In the case of an insurance exchange created by the laws of a state other than this state:

(i) The syndicates of the exchange shall maintain under terms acceptable to the commissioner capital and surplus, or its equivalent under the laws of its domiciliary jurisdiction, of not less than $75,000,000 in the aggregate; and

(ii) The exchange shall maintain under terms acceptable to the commissioner not less than fifty percent (50%) of the policyholder surplus of each syndicate in a custodial account accessible to the exchange or its domiciliary commissioner in the event of insolvency or impairment of the individual syndicate; and

(iii) In addition, each individual syndicate to be eligible to accept surplus lines insurance placements from this state shall meet either of the following requirements:

(I) For insurance exchanges which maintain funds in an amount of not less than $15,000,000 for the protection of all exchange policyholders, the syndicate shall maintain under terms acceptable to the commissioner minimum capital and surplus, or its equivalent under the laws of the domiciliary jurisdiction, of not less than $5,000,000; or

(II) For insurance exchanges which do not maintain funds in an amount of not less than $15,000,000 for the protection of all exchange policyholders, the syndicate shall maintain under terms acceptable to the commissioner minimum capital and surplus, or its equivalent under the laws of its domiciliary jurisdiction, of not less than the minimum capital and surplus requirements under the laws of its domiciliary jurisdiction or $15,000,000, whichever is greater; or

Drafting Note: Some states may want to cross-reference statutory provisions in their own states which provide a grandfather clause for syndicates established with a lower capital and surplus requirement.

(c) In the case of a Lloyd’s plan or other similar group of insurers, which consists of unincorporated individual insurers, or a combination of both unincorporated and incorporated insurers:

(i) The plan or group maintains a trust fund that shall consist of a trustee account representing the group’s liabilities attributable to business written in the United States; and

(ii) In addition, the group shall establish and maintain in trust a surplus in the amount of $100,000,000; which shall be available for the benefit of United States surplus lines policyholders of any member of the group.
(iii) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group’s domiciliary regulator as are the unincorporated members.

(iv) The trust funds shall be maintained in an irrevocable trust account in the United States in a qualified financial institution, consisting of cash, securities, letters of credit or investments of substantially the same character and quality as those which are eligible investments for the capital and statutory reserves of admitted insurers to write like kinds of insurance in this state and, in addition, the trust required by item (ii) of this paragraph shall satisfy the requirements of the Standard Trust Agreement required for listing with the National Association of Insurance Commissioners (NAIC) International Insurers Department; or

(d) In the case of a group of incorporated insurers under common administration, which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to this time, and which submits to this state’s authority to examine its books and records and bears the expense of the examination:

(i) The group shall maintain an aggregate policyholders’ surplus of $10,000,000,000; and

(ii) The group shall maintain in trust a surplus in the amount of $100,000,000; which shall be available for the benefit of United States surplus lines policyholders of any member of the group; and

(iii) Each insurer shall individually maintain capital and surplus of not less than $25,000,000 per company.

(iv) The trust funds shall satisfy the requirements of the Standard Trust Agreement requirement for listing with the NAIC International Insurers Department, and shall be maintained in an irrevocable trust account in the United States in a qualified financial institution, and shall consist of cash, securities, letters of credit or investments of substantially the same character and quality as those which are eligible investments for the capital and statutory reserves of admitted insurers to write like kinds of insurance in this state.

(v) Additionally, each member of the group shall make available to the commissioner an annual certification of the member’s solvency by the member’s domiciliary regulator and its independent public accountant; or

(e) Except for an exchange or plan complying with Subparagraph (b), (c) or (d), an insurer not domiciled in one of the United States or its territories shall satisfy the capital and surplus requirements of Subsection C(2)(a) of this section and shall have in force a trust fund of not less than the greater of:

(i) $5,400,000; or

(ii) Thirty percent (30%) of the United States surplus lines gross liabilities, excluding aviation, wet marine and transportation insurance liabilities, not to exceed $60,000,000, to be determined annually on the basis of accounting practices and procedures substantially equivalent to those promulgated by this state, as of December 31 next preceding the date of determination, where:

(I) The liabilities are maintained in an irrevocable trust account in the United States in a qualified financial institution, on behalf of U.S. policyholders consisting of cash, securities, letters of credit or other investments of substantially the same character and quality as those which are eligible investments pursuant to [cite insurance investment law] for the capital and statutory reserves of admitted insurers to write...
like kinds of insurance in this state. The trust fund, which shall be included in any calculation of capital and surplus or its equivalent, shall satisfy the requirements of the Standard Trust Agreement required for listing with the NAIC International Insurers Department; and

(II) The insurer may request approval from the commissioner to use the trust fund to pay valid surplus lines claims; provided, however, that the balance of the trust fund is never less than the greater of $5,400,000 or thirty percent (30%) of the insurer’s current gross U.S. surplus lines liabilities, excluding aviation, wet marine and transportation insurance liabilities; and

(III) In calculating the trust fund amount required by this subsection, credit shall be given for surplus lines deposits separately required and maintained for a particular state or U.S. territory, not to exceed the amount of the insurer’s loss and loss adjustment reserves in the particular state or territory;

Drafting Note: The commissioner may wish to establish the authority to set a higher level on a case-by-case basis.

(f) An insurer or group of insurers meeting the requirements to do a surplus lines business in this state at the effective date of this law shall have two (2) years from the date of enactment to meet the requirements of Subparagraph (e), as follows:

<table>
<thead>
<tr>
<th>Year Following Enactment</th>
<th>Trust Fund Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>15% of U.S. surplus lines liabilities, excluding aviation, wet marine and transportation insurance, with a maximum of $30,000,000</td>
</tr>
<tr>
<td>2</td>
<td>30% of U.S. surplus lines liabilities, excluding aviation, wet marine and transportation insurance, with a maximum of $60,000,000</td>
</tr>
</tbody>
</table>

(g) The commissioner shall have the authority to adjust, in response to inflation, the trust fund amounts required by Subparagraph (e).

(3) In addition to all of the other requirements of this subsection, an insurer not domiciled in the United States or its territories shall be listed by the NAIC International Insurers Department. The commissioner may waive the requirement in Paragraph (3) or the requirements of Section 5C(2)(e)(ii) may be satisfied by an insurer’s possessing less than the trust fund amount specified in Section 5C(2)(e)(ii) upon an affirmative finding of acceptability by the commissioner if the commissioner is satisfied that the placement of insurance with the insurer is necessary and will not be detrimental to the public and the policyholder. In determining whether business may be placed with the insurer, the commissioner may consider such factors as:

(a) The interests of the public and policyholders;
(b) The length of time the insurer has been authorized in its domiciliary jurisdiction and elsewhere;
(c) Unavailability of particular coverages from authorized insurers or unauthorized insurers meeting the requirements of this section;
(d) The size of the company as measured by its assets, capital and surplus, reserves, premium writings, insurance in force or other appropriate criteria;
(e) The kinds of business the company writes, its net exposure and the extent to which the company’s business is diversified among several lines of insurance and geographic locations; and
(f) The past and projected trend in the size of the company’s capital and surplus considering such factors as premium growth, operating history, loss and expense ratios, or other appropriate criteria; and

(4) Has caused to be provided to the commissioner a copy of its current annual statement certified by the insurer and an actuarial opinion as to the adequacy of, and methodology used to determine, the insurer’s loss reserves. The statement shall be provided at the same time it is provided to the insurer’s domicile, but in no event more than eight (8) months after the close of the period reported upon, and shall be certified as a true and correct copy by an accounting or auditing firm licensed in the jurisdiction of the insurer’s domicile and certified by a senior officer of the nonadmitted insurer as a true and correct copy of the statement filed with the regulatory authority in the domicile of the nonadmitted insurer. In the case of an insurance exchange qualifying under Paragraph (2)(b) of this subsection, the statement may be an aggregate combined statement of all underwriting syndicates operating during the period reported; and

Drafting Note: The following paragraph is for use by those states which desire to adopt a “white list” for determining the eligibility of nonadmitted insurers to write surplus lines insurance.

(5) In addition to meeting the requirements in Paragraphs (1) to (4) of this subsection an insurer shall be an eligible surplus lines insurer if it appears on the most recent list of eligible surplus lines insurers published by the commissioner from time to time but at least semiannually. Nothing in this paragraph shall require the commissioner to place or maintain the name of any nonadmitted insurer on the list of eligible surplus lines insurers.

(6) Notwithstanding Section 5A, only that portion of any risk eligible for export for which the full amount of coverage is not procurable from listed eligible surplus lines insurers may be placed with any other nonadmitted insurer which does not appear on the list of eligible surplus lines insurers published by the commissioner pursuant to Paragraph (5) of this subsection but nonetheless meets the requirements set forth in Sections 5C(1) and 5C(2) and any regulations of the commissioner. The surplus lines licensee seeking to provide coverage through an unlisted nonadmitted insurer shall make a filing specifying the amounts and percentages of each risk to be placed, and naming the nonadmitted insurers with which placement is intended. Within [insert number] days after placing the coverage, the surplus lines licensee shall also send written notice to the insured or the producing broker that the insurance, or a portion thereof, has been placed with the nonadmitted insurer.

D. The placement of surplus lines insurance shall be subject to the statutory and regulatory requirements solely of the insured’s home state.

Drafting Note: Section 522(d) of the federal Nonadmitted and Reinsurance Reform Act provides a workers’ compensation exception to home state authority; specifically, that this section may not be construed to preempt any State law, rule, or regulation that restricts the placement of workers’ compensation insurance or excess insurance for self-funded workers’ compensation plans with a nonadmitted insurer. In addition, Section 527(9) of the NRRA provides that the term “nonadmitted insurance” means any property and casualty insurance permitted to be placed directly or through a surplus lines broker with a nonadmitted insurer eligible to accept such insurance and is not applicable to accident and health insurance. States may consider whether to add language making these exceptions explicit when codifying Section 5D into state law.

E. Insurance procured under this section shall be valid and enforceable as to all parties.

F. Withdrawal of Eligibility as a Surplus Lines Insurer

If at any time the commissioner has reason to believe that a surplus lines insurer is no longer eligible under Section 5C,:

(1) Is in unsound financial condition or has acted in an untrustworthy manner;

(2) No longer meets standards set forth in Section 5C of this Act;

(3) Has willfully violated the laws of this state; or
(4) Does not conduct a proper claims practice.

The commissioner may, after notice and an opportunity for a hearing, declare it ineligible. The commissioner shall promptly mail notice of all such declarations in a timely manner reasonably calculated to reach to each surplus lines licensee or surplus lines advisory organization, for distribution to all surplus lines licensees.

**Drafting Note:** Individual states should consider whether such declarations of ineligibility are appropriate in view of the state’s other due process and administrative procedure requirements. Eligibility criteria are independent of other considerations such as compliance with other laws, for example, 18 USC 1033, relating to felons participating in the insurance business.

**GF. Surplus Lines Tax**

(1) In addition to the full amount of gross premiums charged by the insurer for the insurance, every person licensed pursuant to Section 514 of this Act shall collect and pay to the commissioner a sum equal to [insert number] percent of the gross premiums charged, less any return premiums, for surplus lines insurance provided by the licensee pursuant to the license. Where the insurance covers properties, risks or exposures located or to be performed both in and out of this state, the sum payable shall be computed on that portion of the gross premiums allocated to this state pursuant to Paragraph (4) of this subsection less the amount of gross premiums allocated to this state and returned to the insured paid entirely to the Home State of the insured. The tax on any portion of the premium unearned at termination of insurance having been credited by the state to the licensee shall be returned to the policyholder directly by the surplus lines licensee or through the producing broker, if any. The surplus lines licensee is prohibited from rebating, for any reason, any part of the tax.

(2) At the time of filing the [insert monthly, quarterly, annual] report as set forth in Subsection SR of this section, each surplus lines licensee shall pay the premium tax due for the policies written during the period covered by the report.

(3) If a surplus lines policy procured through a surplus lines licensee covers properties, risks or exposures only partially located or to be performed in this state, the tax due shall be computed on the portions of the premiums which are attributable to the properties, risks or exposures located or to be performed in this state. In determining the amount of premiums taxable in this state, all premiums written, procured or received in this state shall be considered written on properties, risks or exposures located or to be performed in this state, except premiums which are properly allocated or apportioned and reported as taxable premiums of a reciprocal state. In no event shall the tax payable to this state be less than the tax due pursuant to Paragraph (4) of this subsection; provided however, in the event that the amount of tax due under this provision is less than $50 in any jurisdiction, it shall be payable in the jurisdiction in which the affidavit required in Subsection K of this section is filed. The commissioner shall, at least annually, furnish to the commissioner of a reciprocal state, as defined in Section 3L, a copy of all filings reporting an allocation of taxes as required by this subsection.

(4) In determining the amount of gross premiums taxable in this state for a placement of surplus lines insurance covering properties, risks or exposures only partially located or to be performed in this state, the tax due shall be computed on the portions of the premiums which are attributable to properties, risks or exposures located or to be performed in this state and which relates to the kinds of insurance being placed as determined by reference to an allocation schedule duly promulgated in a regulation by the commissioner.

(a) If a policy covers more than one classification:

(i) For any portion of the coverage identified by a classification on the Allocation Schedule, the tax shall be computed by using the Allocation Schedule for the corresponding portion of the premium;

(ii) For any portion of the coverage not identified by a classification on the Allocation Schedule, the tax shall be computed by using an alternative equitable method of
allocation for the property or risk;

(iii) For any portion of the coverage where the premium is indivisible, the tax shall be computed by using the method of allocation which pertains to the classification describing the predominant coverage.

(b) If the information provided by the surplus lines licensee is insufficient to substantiate the method of allocation used by the surplus lines licensee, or if the commissioner determines that the licensee’s method is incorrect, the commissioner shall determine the equitable and appropriate amount of tax due to this state as follows:

(i) By use of the Allocation Schedule where the risk is appropriately identified in the schedule;

(ii) Where the Allocation Schedule does not identify a classification appropriate to the coverage, the commissioner may give significant weight to documented evidence of the underwriting bases and other criteria used by the insurer. The commissioner may also consider other available information to the extent sufficient and relevant, including the percentage of the insured’s physical assets in this state, the percentage of the insured’s sales in this state, the percentage of income or resources derived from this state, and the amount of premium tax paid to another jurisdiction for the policy.

Drafting Note: Subparagraph (b) above may be included in the Act or in a separate regulation at the option of the state. It is highly recommended that the model Allocation Schedule and reporting form be adopted by regulation in conjunction with the adoption of the above language. In order for the model law to work effectively, the allocation schedules used by the states should be as uniform as possible.

HG. Collection of Tax

If the tax owed by a surplus lines licensee under this section has been collected and is not paid within the time prescribed, the same shall be recoverable in a suit brought by the commissioner against the surplus lines licensee and the surety on the bond filed under Subsection HI of this section. The commissioner may charge interest at the rate of [insert number] percent per year for the unpaid tax.

IH. Surplus Lines Licenses

(1) A person shall not procure a contract of surplus lines insurance with a nonadmitted surplus lines insurer unless the person possesses a current surplus lines insurance producer license issued by the commissioner.

(2) The commissioner may issue a resident surplus lines license to a qualified holder of a current underlying property and casualty agent’s or broker’s or general agent’s licenses, but only when the broker or agentproducer has:

(a) Remitted the $[insert amount] annual fee to the commissioner;

(b) Submitted a completed license application on a form supplied by the commissioner;

(c) Passed a qualifying examination approved by the commissioner, except that all holders of a license prior to the effective date of this Act shall be deemed to have passed such an examination;

(cd) In the case of a resident agent, filed with the commissioner, and continues to maintain during the term of the license, in force and unimpaired, a bond or errors and omissions (E&O) policy in favor of this state in the penal sum of $[insert amount] aggregate liability, with corporate sureties approved by the commissioner. The bond or E&O policy shall be conditioned that the surplus lines licensee will conduct business in accordance with the provisions of this Act and will promptly remit the taxes as provided by law. No bond or E&O policy shall be terminated unless at least thirty (30) days prior written notice is
given to the licensee and commissioner;

Drafting note: Under Public Law No. 106-102 (the “Gramm-Leach-Bliley Act”), it is believed that a requirement for a nonresident agent to file a bond may contravene the reciprocity provisions. The requirement for a resident agent to file a bond would not, seemingly, contravene these provisions, and there may be methodologies whereby such resident bonds could become reciprocal between states. Some states have expressed concern that their bonding requirements constitute important consumer protections, and that elimination of these simply to comply with Gramm-Leach-Bliley may result in unintended consequences, and a lack of control over possibly unscrupulous nonresident agents.

(de) If a resident, established and continues to maintain an office in this state; and

(f) Designated the commissioner as agent for service of process, thereby designating the commissioner to be the licensee’s true and lawful attorney upon whom may be served all lawful process in a proceeding instituted by or on behalf of an insured or beneficiary arising out of any contract of insurance, and shall signify its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon the licensee.

(3) A nonresident person shall receive a nonresident surplus lines license if:

(a) The person is currently licensed as a surplus lines licensee and in good standing in his or her home state;

(b) The person has submitted the proper request for licensure and has paid the fees required by [insert appropriate reference to state law or regulation];

(c) The person has submitted or transmitted to the insurance commissioner the application for licensure that the person submitted to his or her home state, or in lieu of the same, a completed Uniform Application; and

(d) The person’s home state awards nonresident surplus lines licenses to residents of this state on the same basis.

Drafting Note: In accordance with Public Law No. 106-102 (the “Gramm-Leach-Bliley Act”) states should not require any additional attachments to the Uniform Application or impose any other conditions on applicants that exceed the information requested within the Uniform Application.

(4) The insurance commissioner may verify the person’s licensing status through the Producer Database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

(5) A nonresident surplus lines licensee who moves from one state to another state or a resident surplus lines licensee who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty (30) days of the change of legal residence. No fee or license application is required.

(6) The insurance commissioner shall waive any requirements for a nonresident surplus lines license applicant with a valid license from his or her home state, except the requirements imposed by this subsection, if the applicant’s home state awards nonresident surplus lines licenses to residents of this state on the same basis.

(76) Each surplus lines license shall expire on [insert date] of each year, and an application for renewal shall be filed before [insert date] of each year upon payment of the annual fee and compliance with other provisions of this section. A surplus lines licensee who fails to apply for renewal of the license...
before [insert date] shall pay a penalty of $[insert amount] and be subject to penalties provided by law before the license will be renewed.

Drafting Note: States may wish to reference their specific licensing statutes in this section.

Drafting Note: Some states allow surplus lines licensees to hold binding authorities on behalf of eligible surplus lines insurers. States which allow such binding authorities might want to establish minimum standards for the related agreements. In addition, states might want to consider requiring surplus lines licensees with such binding authorities to submit the related agreements to state regulators for review and approval.

J4. Suspension, Revocation or Nonrenewal of Surplus Lines Licensee’s License

The commissioner may suspend, revoke or refuse to renew the license of a surplus lines licensee after notice and an opportunity for a hearing as provided under the applicable provision of this state’s laws for upon one or more of the following grounds:

(1) Removal of the resident surplus lines licensee’s office from this state;
(2) Removal of the resident surplus lines licensee’s office accounts and records from this state during the period during which the accounts and records are required to be maintained under Subsection Q of this section;
(3) Closing of the surplus lines licensee’s office for a period of more than thirty (30) business days, unless permission is granted by the commissioner;
(4) Failure to make and file required reports;
(5) Failure to transmit required tax on surplus lines premiums to this state or a reciprocal state to which a tax is owing;
(6) Failure to maintain required bond;
(7) Violation of any provision of this Act; or
(8) For any cause for which an insurance license could be denied, revoked, suspended or renewal refused under Sections [insert applicable citation].

KJ. Actions Against Eligible Surplus Lines Insurers Transacting Surplus Lines Business

(1) An eligible surplus lines insurer may be sued upon a cause of action arising in this state under a surplus lines insurance contract made by it or evidence of insurance issued or delivered by the surplus lines licensee. A policy issued by the eligible surplus lines insurer shall contain a provision stating the substance of this section and designating the person to whom the commissioner shall mail process.
(2) The remedies provided in this section are in addition to any other methods provided by law for service of process upon insurers.

LK. Duty to File Evidence of Insurance and Affidavits

Within [insert number] days after the placing of any surplus lines insurance, each producing broker shall execute and each surplus lines licensee shall execute where appropriate, and file a written report regarding the insurance which shall be kept confidential by the commissioner, including the following:

(1) The name and address of the insured;
(2) The identity of the insurer or insurers;
(3) A description of the subject and location of the risk;
(4) The amount of premium charged for the insurance;

(5) Such other pertinent information as the commissioner may reasonably require; and

(6) An affidavit on a standardized form promulgated by the commissioner as to the diligent efforts to place the coverage with admitted insurers and the results of that effort or the insured is an exempt commercial purchaser. The affidavit shall be open to public inspection. The affidavit shall affirm that the insured was expressly advised in writing prior to placement of the insurance that:

(a) The surplus lines insurer with whom the insurance was to be placed is not licensed in this state and is not subject to its supervision; and

(b) In the event of the insolvency of the surplus lines insurer, losses will not be paid by the state insurance guaranty fund.

**Drafting Note:** Surplus lines licensees will frequently communicate with the insured through a producing broker rather than communicate with the insured directly. In preparing affidavit forms, states may wish to recognize that, as a result of communications passing through the producing broker, the surplus lines licensee may not be in a position to affirm, based upon personal knowledge, that the insured received from the producing broker the written information required by this subsection.

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**ML. Surplus Lines Advisory Organizations**

(1) There is hereby created a nonprofit association to be known as the [insert name]. All surplus lines licensees shall be deemed to be members of the association. The association shall perform its functions under the plan of operation established pursuant to Paragraph (3) of this subsection and must exercise its powers through a board of directors established under Paragraph (2) of this subsection. The association shall be supervised by the commissioner. The association shall be authorized and have the duty to:

**Drafting Note:** The preceding paragraph provides that all surplus lines licensees are “deemed” to be members of the association. Some states, however, may choose not to establish a surplus lines advisory organization; in those states Subsection M would not be necessary.

(a) Receive, record, and subject to Subparagraph (b) of this paragraph, stamp all surplus lines insurance documents which surplus lines brokers are required to file with the association pursuant to the plan of operation;

**Drafting Note:** Subparagraph (a) of this paragraph authorizes the association to receive, record and stamp all surplus lines documents which must be submitted to the association pursuant to the plan of operation. Documents to be submitted to the association for stamping are likely to vary by state.

(b) Refuse to stamp submitted insurance documents, if the association determines that a nonadmitted insurer does not meet minimum state financial standards of eligibility, or the commissioner orders the association not to stamp insurance documents pursuant to Paragraph (9) of this subsection. The association shall notify the commissioner and provide an explanation for any refusal to stamp submitted insurance documents other than a refusal based upon the order of the commissioner;

(c) Prepare and deliver annually to each licensee and to the commissioner a report regarding surplus lines business. The report shall include a delineation of the classes of business procured during the preceding calendar year, in the form the board of directors prescribes;

(d) Encourage compliance by its members with the surplus lines law of this state and the rules and regulations of the commissioner relative to surplus lines insurance;

(e) Communicate with organizations of agents, brokers and admitted insurers with respect to the proper use of the surplus lines market.
(f) Employ and retain persons as necessary to carry out the duties of the association;

(g) Borrow money as necessary to effect the purposes of the association;

(h) Enter contracts as necessary to effect the purposes of the association; and

(i) Provide such other services to its members as are incidental or related to the purposes of the association.

(2) The association shall function through a board of directors elected by the association members, and officers who shall be elected by the board of directors.

(a) The board of directors of the association shall consist of not less than five (5) nor more than nine (9) persons serving terms as established in the plan of operation. The plan of operation shall provide for the election of a board of directors by the members of the association from its membership. The plan of operation shall fix the manner of voting and may weigh each member’s vote to reflect the annual surplus lines insurance premium written by the member.

(b) The board of directors shall elect officers as provided for in the plan of operation.

(3) The association shall establish a plan of operation. The plan of operation shall provide for the formation, operation and governance of the association. The plan and any amendments shall be effective upon approval by the commissioner, which shall not be unreasonably withheld or delayed. All association members shall comply with the plan of operation or any amendments to it. Failure to comply with the plan of operation or any amendments shall constitute a violation of the insurance law and the commissioner may issue an order requiring discontinuance of the violation.

(4) The association shall file with the commissioner:

(a) A copy of its plan of operation and any amendments to it;

(b) A current list of its members revised at least annually;

(c) The name and address of a resident of this state upon whom notices or orders of the commissioner or processes issued at the direction of the commissioner may be served; and

(d) An agreement that the commissioner may examine the association in accordance with the provisions of Paragraph (5) of this subsection.

(5) The commissioner shall, at least once in [insert number] years, make or cause to be made an examination of the association. The reasonable cost of an examination shall be paid by the association upon presentation to it by the commissioner of a detailed account of each cost. The officers, managers, agents, and employees of the association may be examined at any time, under oath, and shall exhibit all books, records, accounts, documents or agreements governing its method of operation. The commissioner shall furnish a copy of the examination report to the association and shall notify the association that it may request a hearing within thirty (30) days on the report or on any facts or recommendations contained in it. If the commissioner finds the association to be in violation of this section, the commissioner may issue an order requiring the discontinuance of the violation. A director may be removed from the association’s board of directors by the commissioner for cause, stated in writing, after an opportunity has been given to the director to be heard.

(6) There shall be no liability on the part of and no causes of action of any nature shall arise against the association, its directors, officers, agents or employees for any action taken or omitted by them in the performance of their powers and duties under this section, absent gross negligence or willful misconduct.
(7) Within [insert number] days after a surplus lines policy is procured, a licensee shall submit to the association for recording and stamping all documents which surplus lines brokers are required to file with the association. Every insurance document submitted to the association pursuant to this subsection shall set forth:

(a) The name and address of the insured;
(b) The gross premium charged;
(c) The name of the nonadmitted insurer; and
(d) The class of insurance procured.

**Drafting Note:** The appropriate time limits for submitting documents required for stamping will vary by state.

(8) It shall be unlawful for an insurance agent, broker or surplus lines broker to deliver in this state any insurance document which surplus lines brokers are required to file with the association unless the insurance document is stamped by the association or is exempt from such requirements. However, a licensee’s failure to comply with the requirements of this subsection shall not affect the validity of the coverage.

(9) The services performed by the association shall be funded by a stamping fee assessed for each premium-bearing document submitted to the association. The stamping fee shall be established by the board of directors of the association from time to time. The stamping fee shall be paid by the insured.

(10) The commissioner may declare a nonadmitted insurer ineligible and order the association not to stamp insurance documents issued by the nonadmitted insurer and issue any other appropriate order.

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**NM. Evidence of the Insurance and Subsequent Changes to the Insurance**

(1) Upon placing surplus lines insurance, the surplus lines licensee shall promptly deliver to the insured or the producing broker the policy, or if the policy is not then available, a certificate as described in Paragraph (4) of this subsection, cover note, binder or other evidence of insurance. The certificate described in Paragraph (4) of this subsection, cover note, binder or other evidence of insurance shall be executed by the surplus lines licensee and shall show the description and location of the subject of the insurance, coverages including any material limitations other than those in standard forms, a general description of the coverages of the insurance, the premium and rate charged and taxes to be collected from the insured, and the name and address of the insured and surplus lines insurer or insurers and proportion of the entire risk assumed by each, and the name of the surplus lines licensee and the licensee’s license number.

(2) A surplus lines licensee shall not issue or deliver any evidence of insurance or purport to insure or represent that insurance will be or has been written by any eligible surplus lines insurer, a nonadmitted insurer pursuant to Section 5C(4), unless the licensee has authority from the insurer to cause the risk to be insured or has received information from the insurer in the regular course of business that the insurance has been granted.

(3) If, after delivery of any evidence of insurance, there is any change in the identity of the insurers, or the proportion of the risk assumed by any insurer, or any other material change in coverage as stated in the surplus lines licensee’s original evidence of insurance, or in any other material as to the insurance coverage so evidenced, the surplus lines licensee shall promptly issue and deliver to the insured or the original producing broker an appropriate substitute for, or endorsement of the original document, accurately showing the current status of the coverage and the insurers responsible for the coverage.

(4) As soon as reasonably possible after the placement of the insurance, the surplus lines licensee shall deliver a copy of the policy or, if not available, a certificate of insurance to the insured or producing broker to replace any evidence of insurance previously issued. Each certificate or policy of insurance
shall contain or have attached a complete record of all policy insuring agreements, conditions, exclusions, clauses, endorsements or any other material facts that would regularly be included in the policy.

(5) A surplus lines licensee who fails to comply with the requirements of this subsection shall be subject to the penalties provided in this Act.

(56) The surplus lines licensee shall give the following consumer notice to every person—other than exempt commercial purchasers—applying for insurance with a nonadmitted insurer. The notice shall be printed in 16-point type on a separate document affixed to the application. The applicant shall sign and date a copy of the notice to acknowledge receiving it. The surplus lines licensee shall maintain the signed notice in its file for a period of five (5) years from expiration of the policy. The surplus lines licensee shall tender a copy of the signed notice to the insured at the time of delivery of each policy the licensee transacts with a nonadmitted insurer. The copy shall be a separate document affixed to the policy.

“Notice: 1. An “nonadmitted” or “surplus lines insurer that is not licensed in this state is issuing the insurance policy that you have applied to purchase. These companies are called “nonadmitted” or “surplus lines” insurers. 2. The insurer is not subject to the financial solvency regulation and enforcement that applies to licensed insurers in this state. 3. These insurers generally do not participate in insurance guaranty funds created by state law. These guaranty funds will not pay your claims or protect your assets if the insurer becomes insolvent and is unable to make payments as promised. 4. Some states maintain lists of approved or eligible surplus lines insurers and surplus lines brokers may use only insurers on the lists. Some states issue orders that particular surplus lines insurers can not be used. 5. For additional information about the above matters and about the insurer, you should ask questions of your insurance agent, broker or surplus lines broker. You may also contact your insurance department consumer help line.”

Drafting Note: This notice is intended to inform personal lines customers and smaller commercial risks of the nature of the coverage they are purchasing. A state may wish to add language to this statute providing that this notice need not be given to commercial risks meeting defined criteria for size and insurance expertise.

ON. Licensee’s Duty to Notify Insured

(1) No contract of insurance placed by a surplus lines licensee under this Act shall be binding upon the insured and no premium charged shall be due and payable until the surplus lines licensee or the producing broker has notified the insured in writing, in a form acceptable to the commissioner, a copy of which shall be maintained by the licensee or the producing broker with the records of the contract and available for possible examination, that:

(a) The insurer [other than a domestic surplus lines insurer] with which the licensee places the insurance is not licensed by this state and is not subject to its supervision; and

(b) In the event of the insolvency of the surplus lines insurer, losses will not be paid by the state insurance guaranty fund.

(2) Nothing herein contained shall nullify any agreement by any insurer to provide insurance.

Drafting Note: To ensure the meaningfulness of the notice required by this subsection, the commissioner might want to establish criteria related to readability, typeface, and type-size of the notice.

PO. Effect of Payment to Surplus Lines Licensee

A payment of premium to a surplus lines licensee acting for a person other than itself in procuring, continuing or renewing any policy of insurance procured under this section shall be deemed to be payment to the insurer, whatever conditions or stipulations may be inserted in the policy or contract notwithstanding.

QP. Surplus Lines Licensees May Accept Business from Other Producers
A surplus lines licensee may originate surplus lines insurance or accept such insurance from any other producing broker duly licensed as to the kinds of insurance involved, and the surplus lines licensee may compensate the producing broker for the business.

**Records of Surplus Lines Licensee**

(1) Each surplus lines licensee shall keep in this state a full and true record of each surplus lines insurance contract placed by or through the licensee, including a copy of the policy, certificate, cover note or other evidence of insurance showing each of the following items applicable:

- (4a) Amount of the insurance, risks and perils insured;
- (2b) Brief description of the property insured and its location;
- (3c) Gross premium charged;
- (4d) Any return premium paid;
- (5e) Rate of premium charged upon the several items of property;
- (6f) Effective date and terms of the contract;
- (7g) Name and address of the insured;
- (8h) Name and address of the insurer;
- (9i) Amount of tax and other sums to be collected from the insured;
- (10) Allocation of taxes by state as referred to in Subsection F of this section; and
- (11j) Identity of the producing broker, any confirming correspondence from the insurer or its representative, and the application.

(2) The record of each contract shall be kept open at all reasonable times to examination by the commissioner without notice for a period not less than five (5) years following termination of the contract. In lieu of maintaining offices in this state, each nonresident surplus lines licensee shall make available to the commissioner any and all records that the commissioner deems necessary for examination.

**Drafting Note:** States may wish to extend the five-year period prescribed for open access to insurance records because of the long-term nature of this business.

**Reports—Summary of Exported Business**

On or before the end of the month following each [insert month, quarter, year], each surplus lines licensee shall file with the commissioner, on forms prescribed by the commissioner, a verified report in duplicate of all surplus lines insurance transacted during the preceding period, showing:

- (1) Aggregate gross premiums written;
- (2) Aggregate return premiums;
- (3) Amount of aggregate tax remitted to this state; and
- (4) Amount of aggregate tax due or remitted to each other state for which an allocation is made pursuant to Subsection Gk of this section.

**Drafting Note:** States desiring to have taxes remitted annually may call for more frequent detailed listing of business.
(1) The commissioner may designate a domestic insurer as a domestic surplus lines insurer upon its application, which shall include, as a minimum, an authorizing resolution of the board of directors and evidence to the commissioner's satisfaction that the insurer has capital and surplus of not less than fifteen million dollars.

(2) A domestic surplus lines insurer:
   (a) Shall be limited in its authority in this state to providing surplus lines insurance.
   (b) May be authorized to write any type of property and casualty [or accident and health] insurance in this state that may be placed with a surplus lines insurer pursuant to this Subpart.
   (c) Be subject to the legal and regulatory requirements applicable to domestic insurers, except for the following:
      (i) Premium taxes, fees, and assessments applicable to admitted insurance;
      (ii) Regulation of rates and forms requiring the filing of rates and forms for approval;
      (iii) Assessment or coverage by insurance guaranty funds.

Section 6. Insurance Independently Procured—Duty to Report and Pay Tax

A. Each insured whose home state is in this state, who procures or continues or reinews insurance with a nonadmitted insurer on properties, risks or exposures located or to be performed in whole or in part in this state, other than insurance procured through a surplus lines licensee, shall, within [insert number] days after the date the insurance was so procured, continued or renewed, file a written report with the commissioner, upon forms prescribed by the commissioner, showing the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged, and additional pertinent information reasonably requested by the commissioner.

For the purposes of this subsection, properties, risks or exposures only partially located or to be performed in this state, which are covered under a multistate policy placed by a surplus lines licensee in another state, shall be deemed to be insurance independently procured unless the insurer is an admitted insurer.

Drafting Note: Subsection A may need to be revised in those states exempting from taxation insurance procured by nonprofit educational institutions and their employers, from nonprofit educational insurers.

B. Gross Premiums charged for the insurance, less any return premiums, is subject to a tax at the rate of [insert number] percent. At the time of filing the report required in Subsection A of this section, the insured whose home state is this state shall pay the tax on all taxable premium to the commissioner, who shall transmit the same for distribution as provided in this Act.

Drafting Note: Existing state laws and procedures may require that the tax report be forwarded to another state agency, such as the Department of the Treasury, rather than to the commissioner. In addition, some states may require the tax to be paid on a periodic basis (e.g., annually) rather than at the time of the filing required by Subsection A. Subsections A and B may need to be revised in these states.

C. If an independently procured policy covers properties, risks or exposures only partially located or to be performed in this state, the tax payable shall be computed on the portion of the premium properly attributable to the properties, risks or exposures located or to be performed in this state, as set forth in Sections 5F(3) and 5F(4) of this Act.

D. Delinquent taxes hereunder shall bear interest at the rate of [insert number] percent per year.

E. This section does not abrogate or modify, and shall not be construed or deemed to abrogate or modify any other provision of this Act.
Section 7. Penalties

A. A person who in this state represents or aids a nonadmitted insurer in violation of this Act may be found guilty of a criminal act and subject to a fine not in excess of $[insert amount].

Drafting Note: Some states might want to specify “misdemeanor” or “felony” rather than “criminal act” in Section 7A.

B. In addition to any other penalty provided herein or otherwise provided by law, including any suspension, revocation or refusal to renew a license, any person, firm, association or corporation violating any provision of this Act shall be liable to a civil penalty not exceeding $[insert amount] for the first offense, and not exceeding $[insert amount] for each succeeding offense.

C. The above penalties are not exclusive remedies. Penalties may also be assessed under [insert citation to trade practices and fraud statute] of the insurance code of this state.

Section 8. Violations

Whenever there is evidence satisfactory to the commissioner believes, from evidence satisfactory to him or her, that a person is violating or about to violate the provisions of this Act, the commissioner may cause a complaint to be filed in the [insert appropriate court] Court for restitution and to enjoin and restrain the person from continuing the violation or engaging in or doing any act in furtherance thereof. The court shall have jurisdiction of the proceeding and shall have the power to make and enter an order of judgment awarding such preliminary or final injunctive relief and restitution as in its judgment is proper.

Section 9. Service of Process

A. Any act of transacting insurance by an unauthorized person or a nonadmitted insurer is equivalent to and shall constitute an irrevocable appointment by the unauthorized person or insurer, binding upon it, its executor or administrator, or successor in interest of the [insert title of appropriate state official] or his or her successor in office, to be the true and lawful attorney of the unauthorized person or insurer upon whom may be served all lawful process in any action, suit or proceeding in any court by the commissioner or by the state and upon whom may be served any notice, order, pleading or process in any proceeding before the commissioner and which arises out of transacting insurance in this state by the unauthorized person or insurer. Any act of transacting insurance in this state by a nonadmitted insurer shall signify its acceptance of its agreement that any lawful process in such court action, suit or proceeding and any notice, order, pleading or process in such administrative proceeding before the commissioner so served shall be of the same legal force and validity as personal service of process in this state upon the unauthorized person or insurer.

B. Service of process in the action shall be made by delivering to and leaving with the [insert title of appropriate state official], or some person in apparent charge of the office, two (2) copies thereof and by payment to the [insert title of appropriate state official] of the fee prescribed by law. Service upon the [insert title of appropriate state official] as attorney shall be service upon the principal.

Drafting Note: Existing state laws and procedures may require that service of process be made upon either the commissioner or another state official.

C. The [insert title of appropriate state official] shall forward by certified mail one of the copies of the process or notice, order, pleading or process in proceedings before the commissioner to the defendant in the court proceeding or to whom the notice, order, pleading or process in the administrative proceeding is addressed or directed at its last known principal place of business and shall keep a record of all process so served on the commissioner which shall show the day and hour of service. Service is sufficient, provided:

(1) Notice of service and a copy of the court process or the notice, order, pleading or process in the administrative proceeding are sent within ten (10) days by certified mail by the plaintiff or the plaintiff’s attorney in the court proceeding or by the commissioner in the administrative proceeding to the defendant in the court proceeding or to whom the notice, order, pleading or process in the administrative proceeding is addressed or directed at the last known principal place of business of the defendant in the court or administrative proceeding; and
(2) The defendant’s receipt or receipts issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person or insurer to whom the letter is addressed, and an affidavit of the plaintiff or the plaintiff’s attorney in a court proceeding or of the commissioner in an administrative proceeding, showing compliance are filed with the clerk of the court in which the action, suit or proceeding is pending or with the commissioner in administrative proceedings, on or before the date the defendant in the court or administrative proceeding is required to appear or respond, or within such further time as the court or commissioner may allow.

D. A plaintiff shall not be entitled to a judgment or a determination by default in any court or administrative proceeding in which court process or notice, order, pleading or process in proceedings before the commissioner is served under this section until the expiration of forty-five (45) days from the date of filing of the affidavit of compliance.

E. Nothing in this section shall limit or affect the right to serve any process, notice, order or demand upon any person or insurer in any other manner now or hereafter permitted by law.

F. Each nonadmitted insurer assuming insurance in this state, or relative to property, risks or exposures located or to be performed in this state, shall be deemed to have subjected itself to this Act.

G. Notwithstanding conditions or stipulations in the policy or contract, a nonadmitted insurer may be sued upon any cause of action arising in this state, or relative to property, risks or exposures located or to be performed in this state, under any insurance contract made by it.

H. Notwithstanding Except with regard to exempt commercial purchasers, independently procured insurance, aviation, and wet marine and transportation insurance, conditions or stipulations in the policy or contract notwithstanding, a nonadmitted insurer subject to arbitration or other alternative dispute resolution mechanism arising in this state or relative to property, risks or exposures located or to be performed in this state under an insurance contract made by it shall conduct the arbitration or other alternative dispute resolution mechanism in this state in the home state of the insured.

Drafting Note: Provisions of a state’s constitution, statutes, regulations, and public policy may necessitate amendment of the prior subsection 9H. States should consider adoption or modification of prior Section 9H in light of their own laws on arbitration or other alternative dispute resolution in insurance and commercial transactions. States should cross-reference their state insurance code to verify the inclusion of “Aviation” within this provision.

I. A policy or contract issued by the nonadmitted insurer or one which is otherwise valid and contains a condition or provision not in compliance with the requirements of this Act is not thereby rendered invalid but shall be construed and applied in accordance with the conditions and provisions which would have applied had the policy or contract been issued or delivered in full compliance with this Act.

Section 10. Legal or Administrative Procedures

A. Before any nonadmitted insurer files or causes to be filed any pleading in any court action, suit or proceeding or in any notice, order, pleading or process in an administrative proceeding before the commissioner instituted against the person or insurer, by services made as provided in this Act, the insurer shall either:

(1) Deposit with the clerk of the court in which the action, suit or proceeding is pending, or with the Commissioner of Insurance in administrative proceedings before the commissioner, cash or securities, or file with the clerk or commissioner a bond with good and sufficient sureties, to be approved by the clerk or commissioner in an amount to be fixed by the court or commissioner sufficient to secure the payment of any final judgment which may be rendered in the action or administrative proceeding; or

(2) Procure a certificate of authority to transact the business of insurance in this state. In considering the application of an insurer for a certificate of authority, for the purposes of this paragraph the commissioner need not assert the provisions of [insert sections of insurance laws relating to retaliation] against the insurer with respect to its application if the commissioner determines that the company would otherwise comply with the requirements for a certificate of authority.
B. The Commissioner of Insurance, in any administrative proceeding in which service is made as provided in this Act, may in the commissioner’s discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of Subsection A of this section and to defend the action.

C. Nothing in Subsection A of this section shall be construed to prevent a nonadmitted insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in this Act, on the ground that the nonadmitted insurer has not done any of the acts enumerated in the pleadings.

D. Nothing in Subsection A of this section shall apply to placements of insurance which were lawful in the home state of the insured in which the placement took place and which were not unlawful placements under the laws of this state. Without limiting the generality of the foregoing, nothing in Subsection A shall apply to a placement made pursuant to Section 5 of this Act.

Section 11. Enforcement

A. The commissioner shall have the authority to proceed in the courts of this state or any other United States jurisdiction to enforce an order or decision in any court proceeding or in any administrative proceeding before the commissioner of Insurance.

A. Filing and Status of Foreign Decrees

A copy of a foreign decree authenticated in accordance with the statutes of this state may be filed in the office of the clerk of any court of this state. The clerk, upon verifying with the commissioner that the decree or order qualifies as a “foreign decree” shall treat the foreign decree in the same manner as a decree of a court of this state. A foreign decree so filed has the same effect and shall be deemed a decree of a court of this state, and is subject to the same procedures, defenses and proceedings for reopening, vacating or staying as a decree of a court of this state and may be enforced or satisfied in like manner.

B. Notice of Filing

(1) At the time of the filing of the foreign decree, the plaintiff shall make and file with the clerk of the court an affidavit setting forth the name and last known post office address of the defendant.

(2) Promptly upon the filing of the foreign decree and the affidavit, the clerk shall mail notice of the filing of the foreign decree to the defendant at the address given and to the commissioner of this state and shall make a note of the mailing in the docket. In addition, the plaintiff may mail a notice of the filing of the foreign decree to the defendant and to the commissioner of this state and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the plaintiff has been filed.

(3) No execution or other process for enforcement of a foreign decree filed hereunder shall issue until thirty (30) days after the date the decree is filed.

Drafting Note: This section presumes that the commissioner has authority to proceed without the cooperation of the state’s attorney general. Governing state laws might require that a person other than the commissioner or the attorney general serve as the plaintiff. The title of that person shall be substituted for “commissioner” or “plaintiff” in Section 11 whenever required by state law.

C. Stay of the Foreign Decree

(1) If the defendant shows the court that an appeal from the foreign decree is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign decree until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the defendant has furnished the security for the satisfaction of the decree required by the state in which it was rendered.

(2) If the defendant shows the court any ground upon which enforcement of a
deed of any [insert proper court] Court of this state would be stayed, the court shall stay enforcement of the foreign decree for an appropriate period, upon requiring the same security for satisfaction of the decree which is required in this state.

**B.** D. It shall be the policy of this state that the insurance commissioner shall cooperate with regulatory officials in other United States jurisdictions to the greatest degree reasonably practicable in enforcing lawfully issued orders of such other officials subject to public policy and the insurance laws of the state. Without limiting the generality of the foregoing, the commissioner may enforce an order lawfully issued by other officials provided the order does not violate the laws or public policy of this state.

**Section 12. Suits by Nonadmitted Insurers**

A nonadmitted insurer may not commence or maintain an action in at law or in equity, including arbitration or any other dispute resolution mechanism, in this state to enforce any right arising out of any insurance transaction except with respect to:

**A.** Claims under policies lawfully placed pursuant to the law of the home state of the insured written in this state;

**B.** Liquidation of assets and liabilities of the insurer (other than collection of new premium), resulting from its former authorized operations in this state;

**C.** Transactions subsequent to issuance of a policy not covering domestic risks at the time of issuance, and lawfully procured under the laws of the jurisdiction where the transaction took place;

**D.** Surplus lines insurance placed by a licensee under authority of Section 5 of this Act;

**E.** Reinsurance placed under the authority of [insert citations of state’s reinsurance intermediary act and other reinsurance laws];

**F.** The continuation and servicing of life insurance, health insurance policies or annuity contracts remaining in force as to residents of this state where the formerly authorized insurer has withdrawn from the state and is not transacting new insurance in the state;

**G.** Servicing of policies written by an admitted insurer in a state to which the insured has moved but in which the company does not have a certificate of authority until the term expires;

**H.** Claims under policies covering wet marine and transportation insurance;

**I.** Placements of insurance which were lawful in the jurisdiction in which the transaction took place and which were not unlawful placements under the laws of this state.

**Drafting Note:** Provisions of a state’s constitution, statutes, regulations, and public policy may necessitate amendment of the opening paragraph of this section.

**Section 13. Separability Severability Clause of Provisions**

If any provisions of this Act, or the application of the provision to any person or circumstance, shall be held invalid, the remainder of the Act and the application of the provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

**Section 14. Effective Date**

This Act shall take effect [insert appropriate date].

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**Chronological Summary of Actions (all references are to the Proceedings of the NAIC).**

1994 Proc. 3rd Quarter 14, 16-17, 24, 28-46 (adopted).
This model draws from and replaces three earlier NAIC models:

**Model Surplus Lines Law**

**Unauthorized Insurers Model Act**

**Model Nonadmitted Insurance Act**
Chair McClain, Vice Chairs Arnold and Deiter, and Members of the Committee,

I am Chris Reed, General Counsel and Chief Risk Officer, Nonprofits Insurance Alliance, of which Alliance of Nonprofits for Insurance, RRG (ANI) is a part. Thank you for the opportunity to speak with you today. I am here representing tens of thousands of our nonprofit member-owners at risk of losing coverage, as well as speaking for the thousands of nonprofits that still struggle without adequate coverage. Our only goal is to make sure nonprofits have access to the stable coverage that these nonprofits cannot find in the market today. The Nonprofit Property Protection Act (NPPA) will allow these nonprofits a market-based solution for a market failure at no cost to taxpayers. It will not disturb existing markets and will be done in a way that is consistent with all NAIC solvency standards. In addition to these remarks, I have provided the C Committee with extensive written documentation for each point I will make today.

Summary of the problem

We hear continuously from community-based nonprofits like those listed in the written materials I have provided. This seven-page list is just a small sample of stories of organizations that were nonrenewed by admitted carriers over the past three years. Most had no claims history that would justify nonrenewal. It is typical for us to hear from brokers and nonprofits that if they had not found nonprofits own RRG, they would have had to stop serving the children and doing other critical work in their communities. We also get regular appeals from nonprofits and their brokers in the 18 states we cannot serve, such as New Mexico and Indiana, desperately seeking liability coverage from us. In fact, we have turned down such requests from more than 4,000 nonprofits because not a single source of appropriate monoline property or auto physical damage insurance is available to pair with our liability, so we cannot help them. In fact, just last month we were engaged by child serving nonprofits here in Kentucky that are facing going out of business because they cannot get the insurance they need. The children being served by these organizations cannot wait and don’t deserve to be abandoned.

Thousands of nonprofits purchase specialized liability insurance, including tailored risk management services, from RRGs the nonprofits own and govern. These nonprofits are unable to purchase property coverage on a monoline basis on a Business Owners Policy form (½ BOP) and monoline auto physical damage (APD) they need from commercial insurance carriers. Nonprofits need for these coverages emerged after commercial insurance companies stopped offering nonprofits the package policies they needed (with the property and liability coverages all bundled together), and nonprofits created their own RRGs. Once obtaining the GL, professional, sexual abuse, auto and other liability insurance from an RRG these nonprofits and brokers realized that these essential monoline coverages of property and auto physical damage were not provided by commercial insurers. It was assumed that a competitive market would react and create products to meet these needs. It did not. Only a single carrier ever filed to offer the ½ BOP and monoline APD, and only in 32 states and DC. It plans to stop offering that
coverage, not because it has a poor claims record, but because it is changing its strategic direction. This would leave tens of thousands of nonprofits that rely on an RRG without the monoline APD and property coverage they need. The insurance crisis of the past few years was dramatically blunted because of the insurance capacity provided by RRGs. If RRGs for nonprofits are not able to assist these organizations, this lack of insurance will force many nonprofits providing service to children and others to stop providing them. This would result in an unnecessary additional crisis when states are already struggling to provide adequate services.

**What evidence do we have of this problem?**

Through op eds, letters, calls, and nationwide surveys over the past several years it has been made abundantly clear that there is a crisis in availability and affordability of property/casualty insurance for nonprofits. Nonprofits own RRG, which is nearly 25 years old, has doubled in size in the past three years as it worked diligently to fill the gap created by the exit of so many commercial carriers, but its own existence is now in peril without the NPPA becoming law.

Some still ask why we need the NPPA. Perhaps that can best be answered with another question. Why would A J Gallagher, Marsh and other brokers with access to all admitted markets place coverage for their nonprofit clients with an RRGs if there were admitted sources of the coverage their nonprofit clients need?

Why? Because there is a serious market failure, impacting a very specific segment of people-serving nonprofit organizations. The tremendous negative impact on these organizations is clear and has been loudly and persistently communicated by them, their umbrella groups, their brokers, and numerous members of Congress from both parties. This includes letters from nonprofits and umbrella groups to at least 23 commissioner’s offices in 2021 and 2022. An effort to remedy this problem has been repeatedly introduced by both parties in Congress as bills and discussion drafts. The latest discussion draft from 117th Congress was circulated by Senate Banking Chair Sherrod Brown of Ohio after his office had reviewed all objections raised (in writings, hearing, and meetings) by the NAIC. That draft included language to address each and every substantive objection. Chair Brown also asked Commissioner Birrane of Maryland at a Senate Banking hearing if the NAIC would work to address the problem with him. She agreed to do so and yet NAIC continues to oppose the NPPA, without offering any suggestions for language to cure its perceived shortcomings.

**Is regulation of RRGs under the NPPA sufficient?**

According to the NAIC’s own website, RRGs are regulated for solvency much like multi-state admitted carriers. In 2014 NAIC imposed significant additional governance standards on RRGs assuring that regulators must apply the same Risk-Based Capital (RBC) standards on RRGs as on commercial carriers. And state regulators in all states have the same access to solvency information for both RRGs and traditionally regulated insurers. If nondomicile regulators have concerns they may alert the domicile regulator, much like lead state regulation. If a domicile regulator refuses to conduct an examination of an RRG if requested, the nondomicile regulator has the authority to conduct its own examination of that RRG. For a little perspective, the total
premium of RRGs that have failed after having 10 or more years’ experience (the seasoning required by the NPPA) is less than $200 million nationwide—in 40 years.

Under the NAIC accreditation program, RRGs, like admitted carriers, must comply with the usual quarterly and annual filing requirements imposed on property and casualty insurance companies, including financial statements (Yellow Book format), Management's Discussion and Analysis (MD&A), risk-based capital (RBC) calculations, audited statements, actuarial opinions, etc. The domicile regulator must perform quarterly surveillance procedures and conduct periodic examinations in accordance with the NAIC Financial Analysis Handbook and the Financial Condition Examiners Handbook. If a company is determined to be troubled, the regulator must follow the NAIC Troubled Company Handbook procedures for that RRG.

Specifically, the NPPA includes the following additional provisions which would apply to RRGs that would be able to offer property insurance as well as the liability insurance they already offer:

a. Property can only be provided by an RRG to a 501(c)(3) nonprofit
b. RRG must have a minimum of $20 million in surplus
c. RRG must have operated as a liability only RRG for at least 10 years before offering property.
d. RRG may only offer TIV limits up to $50 million to any member.
e. RRG may not begin writing property in a state where a regulator has posted the names of three admitted companies writing the monoline property ½ BOP and auto physical damage.
f. Provides additional rights for nondomicile regulators to verify RRG assets.
g. Allows states to decide if an RRG offering property should be part of the guarantee fund in that state
h. Provides additional rights to nondomicile regulators should the RRGs’ surplus fall below certain levels identified as important by the NAIC

These limitations on the scope of property coverage that can be written is a far cry from being able to write property anytime and anywhere, as asserted in the NAIC letter objecting to the NPPA in December of 2022.

What opposition points to the NPPA has NAIC raised in the past?

NAIC has suggested many times that all RRGs need to do to solve this problem is become admitted carriers. As we have described in detail in the past, this option is not available for the organization I represent that is an RRG with tens of thousands of nonprofit member-insureds. Why? Because in the mid-1990s, Congress created a special tax law to allow 501(c)(3) nonprofit charitable insurers to have the same tax status and same transparency of the nonprofits they insure. The RRG I represent has been a 501(c)(3) nonprofit under that law since its founding in 2000. That law requires such RRGs to be organized as risk pools under enabling state legislation, such as that in Vermont, not to be commercial insurance companies. None of the assets of RRGs under this statute may be used to transform them into traditional admitted carriers.

NAIC has alleged that RRGs have an unfair advantage. RRGs have the same cost of capital as admitted carriers and RRGs pay at least the same or higher premium tax (some states require surplus lines premium tax rate). With respect to rates, RRGs charge rates appropriate for their
member-owners risk profiles, as determined by qualified actuaries at the expense of the RRGs, and there is no incentive for RRGs to overcharge or undercharge their own members. With respect to forms, RRGs develop and maintain most of the forms needed for the specific shared risk profiles of their members, at their own expense. So, while the expenses and burdens are not identical, there is no material unfair advantage. Even if minimal differences remain, should nonprofits be denied the ability to help themselves address the market failure impacting them, at no cost to taxpayers, to protect the profit margins of for-profit companies? What justifies that?

**NAIC has said that surplus lines provides the solution.** Any suggestion that surplus lines is an appropriate workaround for the market failure is profoundly unfair. The nonprofits being nonrenewed or denied coverage outright, are not unusual or high risk. They do not have claims histories or risk profiles that would justify relegating them to surplus lines. And with surplus lines, there is no access to the guarantee fund. The NPPA lets the states decide if RRGs offering property should be part of the guarantee fund. That is actually more in line with state-based regulation than the national rule in place now.

**Should NAIC produce a study of this problem?**

**A study will not produce useful information.** While ideally, we could provide clear and complete data about the size of the problem, the economic impact on service providers, and the reduced services that would be implied by that, there is nobody that can provide such data. I know this because we have admissions from well-placed sources that insurance companies, NAIC, and the states do not have and cannot produce the data to show this in detail. For instance, in 2022 nearly two dozen commissioners and Mike Consedine got emails from nonprofits and their umbrella groups all over the country saying this was a problem. To our knowledge, only one state, which had been contacted by many nonprofits in that state, sent a data call to insurance companies operating in that state, including ANI as an insurer. We engaged with that office and their well-qualified actuary and supplied them detailed data about nonprofits in that state for which we had the granular data they were requesting. But in the end, they got no other data from any other insurers, because those insurers do not track the types of details that would be needed to understand the problem. Further, we have spoken to people with first-hand knowledge of NAIC Property and Casualty Data Science operations. They made clear to us that they cannot get the details needed from state or insurers for this sort of analysis and so NAIC does not have the data needed either. Going this route would only be an effort to distract from the NPPA.

**NPPA would allow strong, proven RRGs to provide coverage nonprofits need**

Nonprofits have shown that they can insure the far more challenging liability risks successfully through their own RRGs. Commercial carriers have abandoned nonprofits, nonrenewing thousands of them claiming sexual abuse is uninsurable because of social inflation. But consider this. If the cause of this crisis were truly social inflation, nonprofits own RRGs that have written sexual abuse liability consistently for decades would have been the first to fail. In fact, we have data demonstrating that the frequency of sexual abuse claims for community-based nonprofits has not increased over the course of a decade. Nonprofit RRGs provide superior underwriting, consistent coverage, tailored risk management and sophisticated claims handling for the most
difficult of liability exposures under the most challenges of circumstances. Tens of thousands of nonprofits are now relying on a single source of property to pair with the liability insurance they now obtain through their own RRGs. Nonprofits in states in which a nonprofit RRG cannot operate unless the NPPA is passed are even more disadvantaged. Those risks can be resolved by the NPPA. We ask NAIC to please acknowledge the truth of these facts I have presented to today and in my written materials and agree to take a position either in support or neutral on the NPPA for the benefit of community-based nonprofits and the people they serve nationwide.
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1. **The LRRA reacted to the crisis in the 1980s by preempting the state and relaxing regulatory standards that otherwise provide important protections and the NPPA would similarly undermine critical consumer protections for the most vulnerable insured.**

First, the LRRA only allows associations of similar organizations with similar operations in need of similar coverage to create RRGs. For nonprofits, their common exposures are many, including the unique exposure of volunteers. Also, the hybrid form of regulation allowed by the LRRA, not so much as relaxed regulatory standards as “right-sized” them to enable a solution that fit the problem for specialized risks not well-served by commercial carriers. Some of those RRGs have members that serve the most vulnerable, but the RRG member organization are not more vulnerable that other commercial insurance customers. Further, as commercial businesses, they rely on the expertise and recommendations of their licensed insurance brokers.

Second, over time, NAIC has imposed significant new requirements on states domiciling RRGs to avoid any “race to the bottom.” These regulators must apply the same Risk-Based Capital (RBC) standards on RRGs as on commercial carriers. Under the NAIC accreditation program, RRGs, like admitted carriers, must comply with the usual quarterly and annual filing requirements imposed on property and casualty insurance companies, including financial statements (Yellow Book format), Management's Discussion and Analysis (MD&A), risk-based capital (RBC) calculations, audited statements, actuarial opinions, etc. The domicile regulator must perform quarterly surveillance procedures and conduct periodic examinations in accordance with the NAIC Financial Analysis Handbook and the Financial Condition Examiners Handbook. If a company is determined to be troubled, the regulator must follow the NAIC Troubled Company Handbook procedures for that RRG.

2. **Non-domiciliary state regulators are severely curtailed by the LRRA compared to a traditional admitted insurer, resulting in regulatory capture and a race to the bottom for regulating RRGs, and leaving RRGs without multiple regulatory eyes on them and without the full panoply of regulatory protections.**

Under existing law, there is ample opportunity provided to nondomicile regulators to have a clear view into the operations and financial status of any RRG. Non-domicile states have access to the same information through the domicile state that it has on admitted carriers operating in their state, including quarterly financial reports, and can request the domicile regulator to conduct an examination of the RRG at any time, and can conduct the examination itself, if the domicile regulator does not. RRGs pay full premium tax to all states in which they operate to provide resources to enable investigation of the financial position of RRGs by both domicile and nondomicile regulators if they chose to avail themselves of the information available to them. This combined with the predominant and sensible reliance on lead state regulation for admitted carriers results in the same access to solvency information for all state insurance regulators for both RRGs and traditionally regulated insurers. With respect to filing rates and forms, for commercial lines many states are file and use. Not a
solvency tool per se, rate and form review by regulators is primarily to assure consumers that they are receiving fair value for premium. With RRGs, this focus on rates and forms is misplaced because the LRRA created RRGs to enable commercial businesses to create insurance companies for those already not served adequately by the commercial market. RRGs establish their rates and forms based on the needs and exposures of their member owners. RRGs are also required to annually have a certified actuary provide a written opinion on the adequacy of the RRGs reserves. Further, RRGs have no incentive to provide inadequate policies at over inflated prices or offer inadequate premiums to their members as doing either of those practices would lead to the same market failure they were created to fix. Far from just focusing on rates and forms, most RRGs offer significant risk management resources designed for the specific risks posed by their member-owners.

3. \textit{There is no crisis now similar to the one in the 1980s that justified the LRRA.}

While the current crisis may not be as widespread in other areas of the economy as it was in the 1980s, the crisis happening now has been devastating and is impacting nonprofits in nearly the same manner that occurred in the 1980s. The recent crisis was triggered by high profile sexual abuse claims against large institutions. Data clearly shows that while the frequency of such claims has not increased with community-based nonprofits, they have been treated by commercial insurance companies with the same broad brush of nonrenewal that larger institutions are facing. Commercial insurance companies simply don’t have sufficiently detailed data or financial incentive to make a distinction. As a result, numerous large commercial insurance companies have nonrenewed their book of business for sexual abuse exposures for community-based nonprofits, without justification. (See attached Sample List of Nonrenewals | Appendix II).

Over many years, we have provided NAIC with reams of evidence that nonprofits are facing great difficulties obtaining affordable insurance that is appropriate for their exposures. The largest insurance brokers have confirmed this crisis in writing (Op Ed | Appendix III). Further more than 3,000 nonprofits, associations and brokers who have sent letters to Congress about the crisis and how the NPPA would enable an important increase in insurance capacity. And most recently, an additional nearly 1,000 nonprofits have reached out to 23 insurance commissioners in person on via letters. Perhaps the most striking testament to this crisis for nonprofits is that 1,000 brokers including the largest in the US who have access to all of the admitted carriers in the country are placing tens of thousands of nonprofits with RRGs. RRGs often offer lower commission and require a broker to place multiple individual policies--even for a small nonprofit with only contents and a single vehicle--since RRGs may not offer package policies. Nonetheless, these insurance brokers work with an RRG because it offers the coverage their clients need.

The reason the liability insurance crisis has become a crisis requiring the passage of the NPPA relates to how insurance is provided, when it is provided, to nonprofits by commercial insurance companies. Many RRGs insure for professional liability, or insure large organizations, that can purchase monoline policies to pair with the professional or specialty insurance from their RRG. That model does not work for small and mid-sized nonprofits because when commercial insurers are willing to offer coverage to small and mid-sized
nonprofits, it is through a “package” policy which includes both the property and liability, including professional all in one bundle. However, when commercial carriers won’t offer the liability, they typically will not offer just the property half of the “package” because these coverages are inextricably tied into the one policy. All of the thousands of small and mid-sized nonprofits who have come to rely on nonprofits largest RRG rely on a single source of property and auto physical damage insurance. That single source is only available in 32 states and the carrier offering it has changed its strategy and is looking to discontinue the program. Consultants and brokers have been unable to find any other carriers writing the monoline auto physical damage and property coverage. With no other options available for this standalone property and auto physical damage coverage, all the nonprofit organizations that have come to rely in this crisis on this RRG are now at risk. Relying on a single carrier to offer this coverage was never sustainable. It was assumed that competitive market pressures would encourage carriers to offer these standalone coverages, however, that has never happened. This is, by definition, a market failure.

4. **Traditional admitted carriers do provide coverage to nonprofits, and if not can use surplus lines.**

As mentioned above, why would more than 1,000 brokers, including large brokers such as Arthur J. Gallagher and Marsh that have access to all markets, regularly rely on an RRG for the coverage their clients need, if they had reliable admitted markets? We can’t speak for other RRGs, but we know that 25,000 nonprofits and their insurance brokers have come to rely on the Nonprofits Insurance Alliance (NIA). What stronger evidence could there be that traditionally admitted carriers are not filling this need? We have seen a lot of hand waving over many years asserting that there is no shortage of monoline auto physical damage or a ½ of BOP property, but when asked by Members of Congress and others to name the carriers that supply this coverage, those who make these assurances are unable to supply the name of a single carrier offering them. NIA has engaged a consultant to scour through insurance company filings to locate sources of these coverages to no avail. We have also surveyed insurance brokers hoping to uncover markets without success. Suggesting that surplus lines is appropriate for this nonprofit need, is to demonstrate a profound misunderstanding of the nature of these risks. Surplus lines is for large and unusual risks—nonprofits are neither. Just because a business group is not well-understood by commercial insurance carriers, does not make it risky.

5. **Asking Commissioners in each state to determine if three insurance companies are providing the property half of the BOP and standalone auto physical damage physical damage to nonprofits is narrow and not a true measure to demonstrate availability.**

The NAIC has been asked repeatedly by members of Congress to suggest language that would improve the NPPA and they have refused to engage. We have provided mountains of evidence to the NAIC that this coverage is not available. If the NAIC does not think this provision is a true measure to demonstrate availability, what is a measure that would affirmatively demonstrate availability and why hasn’t the NAIC suggested it? Given the nationwide struggles nonprofits are facing finding adequate insurance, it seems to be a small thing for insurance commissioners to search their databases to determine which carriers in a
given state offer these coverages. We and members of Congress have asserted for many years that if commercial insurers are providing a competitive market for these coverages, there would be no reason for the NPPA. Is it possible that the true reason the NAIC is rejecting this option of disclosure of markets by regulators is because they do not have sufficient data to provide a list of carriers licensed to provide those coverages in any given state?

6. *The NPPA claims to only allow RRGs to offer property when it is not already offered, but this is in fact an illusory aspect of NPPA because it is narrow and only designed to allow such RRGs to write such coverage wherever and whenever they want.*

The restrictions on RRGs writing property are many and clearly outlined in the NPPA. The bill is designed to solve a niche market failure and without disrupting an otherwise well-functioning market. Given the provisions of the NPPA below how is it possible that the NAIC would construe this as “allow[ing] RRGs to write such coverage whenever and wherever they want?”

a. Property can only be provided by an RRG to a 501(c)(3) nonprofit  
b. RRG must have a minimum of $20 million in surplus  
c. RRG must have operated as a liability only RRG for at least 10 years before offering property.  
d. RRG may only offer TIV limits up to $50 million to any member.  
e. RRG may not begin writing property in a state where a regulator has posted the names of three admitted companies writing the monoline property ½ BOP and auto physical damage.  
f. Provides additional rights for nondomicile regulators to verify RRG assets  
g. Allows states to decide if an RRG offering property should be part of the guarantee fund in that state  
h. Provides additional rights to nondomicile regulators should the RRGs’ surplus fall below certain levels identified as important by the NAIC

7. *Removes the prohibition on RRGs participating in state guarantee funds.*

The NPPA specifically provides the option to have each state decide whether an RRG offering property should be required to be part of the guarantee fund in that state. Such a change is actually more consistent with the state-based system of regulation that NAIC is chartered to support than the present rule excluding all RRGs from guarantee funds.
8. **RRGs have a higher rate of insolvencies.**

The NAIC has cherry-picked a specific range of years in the past to try to demonstrate that RRGs have a high insolvency rate that is a danger to consumers, but that is simply not true. Of the 559 RRGs ever created, only 15 RRGs created in one of the states and who have operated for 10 or more years (which is the seasoning required under the NPPA before a qualifying RRG may offer property insurance) have entered receivership, rehabilitation or liquidation. The total premium represented by those failures was $192.8 million, not even equivalent to the premium size of an average commercial property/casualty insurance company in the US. For all the protestations that the NPPA should not be allowed because there are consumers to protect from all of these RRG failures, it is important to realize that in 40 years, the impact of RRG failures is not even a rounding error compared to the many failures of licensed, admitted insurers. And though many will point out that claimants of admitted carriers that fail try to recover from on the guarantee funds, they fail to point out that guarantee funds over recover of a fraction of the value of commercial policy limits. Nor do they recognize that claimants of these RRG member policies also recovered some of their losses from the remaining assets of the RRGs. Seventy-five percent of the failures with more than 10 years’ experience were with medical malpractice RRGs or commercial auto RRGs, primarily for truckers. RRGs for lawyers and contractors represented the remaining three RRG failures. No nonprofit RRG has operated for 10 or more years and then failed.

9. **Additional solvency protections NPPA offers fall well short of the breadth and scope of those required of admitted carriers.**

This statement is not supported by the facts. All RRGs must comply with Risk-Based Capital be examined under the NIAC Risk-Focused Examination approach. In 2017 NAIC accreditation standards required RRGS to adopt rigorous new Governance Standards related to independent directors, material service providers, plan of operation and audit committee standards. Additional standards were placed on RRG boards of directors addressing conflict of interest, confidentiality, fair dealing, protection and proper use of RRG assets, and mandatory reporting of illegal or unethical behavior affecting operation of RRGs. (Comparison of RRG regulation vs. traditional regulation | Appendix IV) Beyond that, the NPPA provides additional rights to non-domicile regulators to verify assets and request information and take action triggered against non-domicile RRGs if their capital falls below certain NAIC capital standards. Additionally, the NPPA requires a minimum surplus of $20 million to be allowed to offer property, which is more than the minimum we have identified for any state. The NAIC has had years to collaborate with members of Congress to specifically identify which additional solvency protections should be included in the NPPA and they have refused to engage in the interactive process.
10. **RRGs should become admitted carriers if they want to offer property.**

Although we cannot opine on the possibility for other RRGs to become licensed and admitted, Alliance of Nonprofits for Insurance, RRG is authorized by IRS Section 501(n) and qualifies under that statute as a charitable risk pool. and as 501(c)(3) nonprofit. Because of the provisions of that law, it is impossible for us to change into a 50-state admitted insurance company. That organizing law requires charitable risk pools to be “organized as a nonprofit organization under State law provisions authorizing risk pooling arrangements for charitable organizations.” Most states do not have such a law. A detailed explanation of this law and its applicability is available on request. Nonprofits have demonstrated over more than 20 years their ability to successfully insure the most difficult coverages including sexual abuse liability and there is simply no reason to destroy what nonprofits have built or prevent other nonprofits from building something to help themselves at no cost to taxpayers, when no market is otherwise there to serve them.

11. **Such RRGs would have an unfair advantage over admitted carriers.**

As of 2011, all RRGs were required to hold the same capital and thus undertake the same cost of capital as traditionally regulated insurance companies. Furthermore, RRGs have to pay full premium tax in every state in which they operate, including in some states paying the higher surplus lines rate. And they must file and keep current their plans of operation in compliance with the requirements of their domicile regulator. They must also file all of the financial reports required of traditionally regulated insurers and file them with the NAIC and each state and undergo the same financial audits and actuarial reviews of any commercial carrier. Further, RRGs are now operating on a very unfair playing field because they do not have the ability to diversify with both liability and property and offer the “package credits” that allows. What RRGs have been asked to do without this ability to diversify is tantamount to requiring an investor to hold only equity positions, and not be allowed to balance the risk by holding bonds as well. Having the NAIC raise this issue of “unfair advantage” calls into question whether the role of the regulator is to protect the competitive advantage of traditionally regulated insurance companies or assure that nonprofits have a competitive market from which to select the coverages they need.

12. **Policyholders should contact their state insurance department if they are having trouble getting insurance.**

During 2022 and in prior years, at least 23 state insurance commissioners, superintendents, and directors received letters signed by dozens of umbrella groups and thousands of nonprofits. Over the course of 2021 and 2022, one state association worked for over a year with the commissioner’s office to get help with the lack of availability and affordability of insurance for their nonprofit members. The final result of all that work was the commissioner’s office pointing them to SERFF and a list of hundreds of admitted carriers to find coverage their members might be able to use. They were unable to fulfill the simple request from the nonprofit association about whether there were admitted sources of insurance for the package of property and liability insurance their members needed, or in the absence of that, where they could find carriers to offer the ½ BOP property and monoline
auto physical damage that could be paired with the liability insurance their members
procured through their own RRG. This was 18 months of effort with no useful result for that
nonprofit. Despite being daunted by the task, we know that many nonprofits and insurance
brokers across the country have reached out to their commissioners pleading for help with
finding access to property casualty insurance without ever getting any help. Instead the
NAIC has redoubled its efforts to prohibit nonprofits from fixing this problem themselves
through their own RRGs.

Realistically, nonprofits should be able to rely on their licensed insurance brokers to source
appropriate insurance. Surveys confirm, however, that there is no suitable property ½ BOP
or monoline auto physical damage available. Insurance regulators could have stopped the
initiative to pass the NPPA years ago by simply providing a list of a half dozen licensed and
admitted insurance companies providing the ½ property BOP and monoline auto physical
damage coverage in all 50 states that nonprofits need. No such list was ever provided.
Regulators continue to allege that the coverage is available, but they have never provided a
shred of evidence of that.
The Honorable Sherrod Brown
Chairman
Committee on Banking,
Housing, and Urban Affairs
U.S. Senate
Washington, DC 20510

The Honorable Patrick Toomey
Ranking Member
Committee on Banking,
Housing, and Urban Affairs
U.S. Senate
Washington, DC 20510

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Re: The Nonprofit Property Protection Act

Dear Chairman Brown, Chairwoman Waters, Ranking Member Toomey, Ranking Member McHenry:

On behalf of the nation’s state insurance regulators, we write in opposition to the Nonprofit Property Protection Act being included in any year-end spending bill.

This draft legislation would expand the scope of the Liability Risk Retention Act of 1986 (LRRA) to allow certain Risk Retention Groups (RRGs) that write liability insurance for non-profits to write commercial property insurance coverage. By way of background, during the 1980s, the availability of commercial liability insurance became severely restricted. The LRRA addressed this availability crisis by preempting the states and relaxing regulatory standards that otherwise would provide important protections to commercial insureds. This bill would undermine critical insurance consumer protections for the most vulnerable of the commercial insured.

As we noted in our testimony before the U.S. Senate Banking Committee in 2022 and the U.S. House Financial Services’ Subcommittee on Housing, Community Development, and Insurance in 2020¹, RRGs are regulated almost exclusively by a single domiciliary state regulator and even though they may operate in other states, non-domiciliary state regulatory authority over these entities is severely curtailed. By comparison, a traditional admitted insurer must receive a license and submit to regulation from every state where it writes business to ensure the policyholders of that state are protected. This coordinated multi-state approach limits the potential regulatory capture and a race to the bottom – a feature now missing

¹https://content.naic.org/sites/default/files/inline-files/Written%20Testimony%20Director%20Lindley-Myers%202021.09.20%20Examining%20Availability%20of%20Insurance%20for%20Nonprofits.pdf
from RRG oversight due to federal preemption. These limitations are significant because RRG policyholders in non-domiciliary states do not get the benefits of the full panoply of regulatory protections that the state insurance system normally provides, and the RRG is not subject to the more robust oversight that multiple sets of eyes can offer.

While the passage of the LRRA may have been viewed as appropriate in the 1980s to address a widespread availability crisis in the liability insurance market, there does not appear to be such a crisis in the commercial property insurance market. However, in light of the concerns raised by certain members of Congress and market participants, we will examine the issue further. Our NAIC Property and Casualty Insurance Committee has adopted a priority objective in 2023 to “Study and report on the availability and affordability of liability and property coverage for non-profit organizations.2” We will keep your committees apprised as we continue our exploration of this issue to ensure non-profit policyholders have access to necessary insurance products.

Traditional admitted carriers do provide coverage to nonprofits, albeit several offer it in the form of a full businessowner’s policy that contains both liability and property coverages. Also, if there are limited options for a specific policyholder in the admitted market, policyholders have access to the surplus lines market and the residual market. While the draft bill attempts to address this concern by only allowing RRGs to write commercial property coverage if the coverage is unavailable in the state, the criteria to demonstrate availability is exceedingly narrow and is not a true measure. The criteria are illusory, specifically designed to accomplish the real intent of the legislation, which is to allow RRGs to write such coverage wherever and whenever they want, with more limited regulatory oversight.

Further, the legislation would remove the prohibition barring RRGs from participating in the state guaranty funds, which are similar in concept to the FDIC’s deposit insurance fund and serve as a backstop and pay claims to policyholders in the event of an insurer failure. RRGs have historically had a higher rate of insolvencies when compared to admitted insurers and allowing them to participate in the state guaranty funds without being fully regulated would subject the guaranty funds, other insurers, and policyholders to greater risks.

While we recognize that the bill requires RRGs seeking to sell coverage to nonprofits be subject to some additional solvency protections, the additional protections contained within the legislation fall short of the breadth and scope of the type of regulation that the admitted market is subject to. Notwithstanding these provisions, the NAIC remains concerned that the legislation could expose nonprofit organizations and those who rely upon them to unnecessary risks. We encourage RRGs interested in expanding into writing commercial property coverage to explore converting to an admitted carrier and be subject to the same regulatory requirements on a level playing field as traditional admitted property and casualty insurers.

In conclusion, we believe this legislation preempts critical regulatory protections and should not be included in any omnibus bill. We would encourage nonprofit policyholders that have difficulties with obtaining property coverage to work their state’s insurance department so we can seek to address such issues through appropriately tailored state-based regulatory solutions as we do with all other lines of insurance. Thank you for your consideration of the state insurance regulatory perspective.

2 https://content.naic.org/cmte_c.htm
Respectfully,

Dean L. Cameron  
NAIC President  
Director  
Idaho Department of Insurance

Chlora Lindley-Myers  
NAIC President-Elect  
Director  
Missouri Department of Commerce and Insurance

Andrew N. Mais (He/Him/His)  
NAIC Vice President  
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Connecticut Insurance Department

Jon Godfread  
NAIC Secretary-Treasurer  
Commissioner  
North Dakota Insurance Department

Michael F. Consedine  
Chief Executive Officer  
National Association of Insurance Commissioners
Anne Grady Services ([www.annegrady.org](http://www.annegrady.org)) Holland, Ohio provides services to children and adults with intellectual disability by assisting with daily living skills since 1982. They provide community homes, supported living, day services, respite, community trust services and outpatient therapy to hundreds of clients and employment to nearly 400 community members. They were nonrenewed by a large commercial carrier with a specialty in nonprofit organizations. Their insurance broker was unable to find any other insurance company that would offer coverage. When the insurance broker requested that the large commercial insurance company provide an extension of coverage to give him more time to find another option, the company refused. At the 11th hour, the broker learned about a risk retention group for nonprofits that provided the insurance this organization needed to be able to continue its nearly 40 years of service to the community.

Region K Community Assistance Corporation (Kerr-Tar Regional Council of Governments), ([https://www.kerrtarcog.org](https://www.kerrtarcog.org))/ Henderson, North Carolina is a voluntary association of local governments which is designated by the State of North Carolina to serve as the lead regional planning organizations for the Kerr-Tar area. They serve 21 member governments in a five county area. Working under the direction of locally elected officials of these member governments, the staff plans and administers a variety of federal, state and local programs and services. It was nonrenewed by a commercial insurance company no longer willing to insure social services.

Central Neighborhood Health Foundation Health Care ([www.cnhfclinics.org](http://www.cnhfclinics.org)) Los Angeles, California, provider specializing in chronic care management, diabetes comprehensive care, mental health and substance abuse, patient centered medical home—a team-based approach to patient health care, led by the primary care physician. Includes primary adult care, pediatric care, women’s health, counseling and mental health services, diagnostic services (screenings and immunizations), acute care. Has 102 employees and has operated in Los Angeles, Inglewood, San Bernardino, Long Beach for 16 years. They were nonrenewed by their commercial insurance company because they had a single claim against them alleging sexual abuse.

Goodwill Industries of Southeast Texas and Southwest Louisiana ([www.goodwilltxla.org](http://www.goodwilltxla.org)) Beaumont, Texas, was formed in 1972 to provide training and employment services to individuals who have disabilities and other barriers to employment. With revenue of $9 million, they provide employment and job training for 150 people. The were nonrenewed by a commercial carrier that is no longer willing to insure social services nonprofits.

NEPA Pet Fund and Rescue ([www.nepapetreescue.com](http://www.nepapetreescue.com)) Scranton, Pennsylvania. This foster based animal rescue has saved over 1,400 animals since 2013. They were nonrenewed by a commercial insurance company that nonrenewed its entire program for animal rescue organizations.

Mid-Delta Community Services ([www.middeltacommunityservices.org](http://www.middeltacommunityservices.org)) Helena, Arkansas started in 1966, to meet the needs of the low-income population in a four-county area. Through the Community Services Block Grant Program, Mid-Delta provides services including employment, transportation, education, counseling, income utilization, emergency services, community projects for children and adults, food and clothing to families who are victims of house fires, and other community related activities. It operates Head Start Centers in seven locations across three counties. It provides essential transportation for some of the area’s most vulnerable through the use of 62 vehicles, mostly vans. This April one of our nation’s largest insurance companies increased their renewal premium on short notice by
$200,000. Seven other insurance companies declined to even offer a quotation for coverage. At the last minute before their existing coverage expired, their insurance broker learned about a risk retention group for nonprofits that, on short notice, provided them the coverage they need. On becoming a member-insured of this risk retention group, Mid-Delta readily accepted the offer of assistance of the risk retention group to augment its driver training program to work together to mitigate future claims. A grateful broker included this in an email to the CEO of the risk retention group, “Your company will allow the nonprofit to continue serving the poorest counties in the United States. You are a blessing in disguise in East Arkansas!”

Regional Aid for Interim Needs (R.A.I.N), (https://www.raininc.org) Bronx, New York is a multi-social service agency offering a myriad of services with a focus on the provision of continuum of care that includes a range of services for seniors and people with disabilities. R.A.I.N. has twelve Bronx based and one Manhattan based full-service neighborhood senior centers, home-delivered meals to homebound elderly, transportation services, assistance with benefits and entitlements, case management and elder abuse services, and Cucina Dolores, a community-based mobile meals program for homeless and hungry persons in the South Bronx in collaboration with the Bob and Dolores Hope Foundation. They were nonrenewed by a commercial insurance carrier because of the services they provide. They were not able to be helped by nonprofits own Risk Retention Group because, unlike any other state and contrary to federal law prohibiting discrimination against RRGs, and multiple court decisions, NY presently forbids RRGs from offering auto insurance.

Homeless Health Care Los Angeles (www.hhcla.org) Los Angeles, California. This nonprofit takes immediate first steps to provide assistance with substance abuse treatment and prevention. Approximately 8.9 million adults in the U.S. are dealing with both mental health and substance use disorders, yet only 7.4% receive treatment for both. And 55.8% receive no treatment at all. HHCLA treats both and treats them on an ongoing basis. This is necessary as HHCLA additionally works with individuals to connect them to permanent housing options. They were nonrenewed by a commercial carrier because they provide human services.

The Children’s Shelter (www.childrensshelter.org) San Antonio, Texas provides a comprehensive array of trauma-informed care services for children, youth, and families, that include emergency shelter care, therapeutic foster care for children and youth, mental healthcare for children and families, child neglect and abuse prevention, and community-based care to transform the foster care experience for children and youth. One of their goals is to break the cycle of child abuse and neglect. Despite having an admirable record of safety for 15 years, at renewal their commercial insurance company charged such an exorbitant rate for the insurance for the foster care services that they had to scramble to find an alternative.

Bucks County Housing Group (www.bchg.org) Newton Pennsylvania. This nonprofit operates five homeless shelters as well as several food banks. They also own and manage 74 rental units. They also offer one-on-one counseling, workshops, and webinars. Their present insurance company was not willing to offer them the limits of coverage on the sexual abuse that they required.

Beam Center (https://beamcenter.org/) Brooklyn, New York. Beam Center brings together youth, artists, engineers, and educators to produce ambitious, collaborative projects that support youth to take bold steps towards meaningful futures and foster conditions for educational equity. Young people learn to
collaborate and create while learning skills in fabrication, prototyping, metalwork, physical computing, construction, and design. This nonprofit was nonrenewed by their prior insurer because of a single claim.

**Bourne, Inc.** ([www.bournegrouphome.org](http://www.bournegrouphome.org)) **Altadena, California.** Group home and residential treatment facility for emotionally disturbed infants, children and teens. In business since 2002 and has 96 employees. Serves those with developmental disabilities, substance abuse and behavioral health issues. Nonrenewed by commercial carrier because they no longer provide the type of coverage required by this nonprofit.

**Sun Ministries** ([www.sunministries.org](http://www.sunministries.org)) **St. Louis, Missouri** does the hard work to repair, rebuild, and restore inner cities. Community revitalization means creating a “bankable” neighborhood where residents can get loans to improve and buy housing. Before banks are willing to lend, they want to make sure other factors, such as insurance that covers organizations engaged in the neighborhood, are in place. Without insurance, any effort at revitalization is in jeopardy. They went three years without insurance before they found a risk retention group willing to insure them. They were rejected from the major insurers. Now, the organization is expanding into Oklahoma, where the risk retention group is unable to help because the single insurance company offering the property insurance they need in Oklahoma does not offer property in Oklahoma and the risk retention group he relies on is prohibited by federal law from offering it. Without access to this insurance, Sun Ministries will be operating to improve the condition of local residents of economically impoverished areas—at the risk of losing everything to a preventable crisis, like an insurance claim.

**Exodus Transitional Community** ([www.etcny.org](http://www.etcny.org)) **New York, New York** delivers innovative programming tailored to adults and youth affected by the justice system, and advocates for a society in which all can achieve social, economic, and spiritual well-being. A faith-based reentry program founded by a former felon, Exodus has been providing services for nearly 20 to formerly incarcerated individuals. In those 20 years they have served more than 25,000 people both inside of prison and upon their reentry. They were nonrenewed by a commercial carrier because of a single slip and fall claim on a stairway.

**Tri-City Life Center, Inc.** ([www.trylifecenter.org](http://www.trylifecenter.org)) **New Kensington, Pennsylvania.** This organization supports expecting parents by providing them with the necessities they need to care for their children and information regarding health and safety issues faced by newborns and children. They also provide a service to allow parents to purchase baby essentials including diapers, formula, wipes, food, and clothes through points earned in the program. They were nonrenewed by a commercial carrier that nonrenewed all of the human services nonprofits.

**South Bay Children’s Health Center Association** ([www.sbcchc.com](http://www.sbcchc.com)) **Redondo Beach, California.** Serves the dental and mental health needs of low-income or at-risk children, teens and young adults. The Dental Clinic is accessible for South Bay families by car or public transportation and provides comprehensive dental care for youth ages 6 months through 24 hears. Also provides preventative care through community education. The Child Guidance Clinic in Torrance provides outpatient and in-home mental health services. South Bay Youth Project provides individual counseling, tutoring and support for those living with special health needs as well as trains local school personnel on issues such as suicide prevention. They were nonrenewed by their commercial insurance carrier because they provide human services.
Mountain True (www.mountaintrue.org) Asheville, North Carolina is a small nonprofit focused on environment preservation. According to Julie Mayfield in a recent article published in an online magazine, Blue Avocado, “One of the biggest challenges and financial burdens that nonprofits currently face is getting and keeping commercial liability and property insurance—insurance that many businesses take for granted. Like any business, we need commercial insurance to ensure we can do our work responsibly and to protect our volunteers and our property. However, over the 11 years I have led MountainTrue we have twice had our insurance cancelled though we never made a claim under either policy.”

Jewish Federations of North America (https://jewishfederations.org/) New York, New York. The Jewish Federations of North America (JFNA) represents 146 Jewish Federations and over 300 Network communities, which raise and distribute more than $3 billion annually and through planned giving and endowment programs to support social welfare, social services and educational needs. The Federation movement, collectively among the top 10 charities on the continent, protects and enhances the well-being of Jews worldwide through the values of tikkun olam (repairing the world), tzedakah (charity and social justice) and Torah (Jewish learning). The organization are thought leaders in caregiving, aging, philanthropy, disability, and healthcare. Their prior carrier was no longer willing to offer them insurance for sexual abuse coverage or the higher limits of coverage they needed.

People’s Oakland, Inc. (www.peoplesoakland.org) Pittsburgh, Pennsylvania. They were founded in response to the crisis faced when thousands of state mental hospital patients were deinstitutionalized and released into the community. They operate a multipurpose social and drop-in area, a commercial kitchen, a fitness center, meeting rooms as well as a resource and computer center. All clients receive individualized counseling. The organization partners with the Allegheny County Department of Human Services, the Commonwealth of Pennsylvania, the City Pittsburgh and the Federal Government. Their present insurance company refused to offer the sexual abuse limits they required.

1736 Family Crisis Center (www.1736fcc.org) Los Angeles, California. This nonprofit assists victims of domestic violence, runaway and homeless youth, victims of human trafficking, homeless families, homeless and at-risk veterans, unemployed adults and youth, and other low-income community members in need of assistance. Insured provides services in the form of rehab programs operated by licensed therapists, social workers, lawyers, and other professional staff. With 169 employees, they operate shelters where services can be accessed 24 hours a day. They also operate community centers as well as various offices where they provide services and do outreach. They also offer crisis assistance including suicide counseling, via 5 available hotlines, the website indicates that 4,874 calls were reported in 2018. This nonprofit helps approximately 5000 people every year. Prior carrier was not willing to offer renewal at terms and price nonprofit could afford.

Bronx Children’s Museum (https://www.bronxchildrensmuseum.org/) Bronx, New York. Bronx Children’s Museum allows children to become explorers, storytellers, scientists, musicians, chefs or anything they can dream up. Bronx Children’s Museum seeks to inspire children, along with their families and caregivers, to learn about themselves within the richness and diversity of their surroundings and beyond, and to become stewards of the planet. This was nonrenewed by their prior carrier because they did not wish to offer sexual abuse coverage on type of nonprofit.

Tri-County Independent Living, Inc. (www.tilinet.org) Eureka, California. Serve developmentally disabled, homeless, low income, physically disabled, at risk/disadvantaged. Provides advocacy, assistive
technology, independent living skills training, housing assistance for individuals from youth to seniors. They also provide counseling and have professionals who provide this service. They were nonrenewed by a commercial insurance company they provide human services.

**Children’s Aid Society (www.childrensaidnyc.org) New York, New York** provides impoverished children in NY with academic and social-emotional learning, health and nutrition as well as providing parents and guardians with the tools they need to strengthen the family and advocate for themselves in their communities. Unlike similar extremely large Children’s Aid Societies in Illinois and Florida, their own Risk Retention Group was unable to help this organization because, unlike any other state and contrary to federal law, NY forbids RRGs to offer auto insurance.

**Homeless Health Care Los Angeles (www.hhcla.org) Los Angeles, California.** This nonprofit takes immediate first steps to provide assistance with substance abuse treatment and prevention. Approximately 8.9 million adults in the U.S. are dealing with both mental health and substance use disorders, yet only 7.4% receive treatment for both. And 55.8% receive no treatment at all. HHCLA treats both and treats them on an ongoing basis. This is necessary as HHCLA additionally works with individuals to connect them to permanent housing options. They were nonrenewed by a commercial carrier because they provide human services.

**Families 4 Families (www.families4families.cc) Loganville, Georgia.** This is a faith-based foster family agency that partners with local churches for family support services. Their work with foster children includes some that are medically fragile. They were nonrenewed by a commercial insurance company that was no longer interested in offering coverage to foster family agencies.

**United Methodist Family Services of Virginia (https://www.umfs.org/) Richmond, Virginia.** They provide a vast array of services to children and teens, including those with acute behavioral and emotionally challenges, and those struggling to overcome trauma. They provide residential programs of up to 18 months, and also short term care up to 45 days for children and teens in crisis that cannot remain in their home. They also provide foster care and other community-based services, in the most recent fiscal year touching the lives of 13,722 children and families in 173 communities. The commercial carrier switch coverage options on them and they faced the prospect of paying 300% of their prior year premium.

**Good Seed Community Development Corporation (www.goodseedshelter.org) Los Angeles, California.** This organization provides temporary housing to youth ages 18-25 would are also in need of mental health services. Their clients are challenged with chronic homelessness, mental health diagnoses and disabilities, as well as minor physical and learning disabilities. For these clients, they provide supported services, job readiness, enrichment programs and mental health referrals. In partnership with the Los Angeles County Department of Mental health, clients receive intense case management to secure permanent house, and drug and alcohol counseling. They were nonrenewed by their commercial insurance carrier because they provide human services.

**Concern America (www.concernamerica.org) Santa Ana, California.** Operating for nearly 50 years, this organization has worked to build health care, clean water, education and economic opportunity with communities worldwide. It operates with 100 volunteers. It works mainly in materially-impoverished communities in Colombia, Guatemala, and Mexico. Field volunteers spend a minimum of two years
working with those communities to assure long-term development and sustainability. It was nonrenewed by a commercial insurance company because it was a nonprofit.

The Bair Foundation Child and Family Ministries (www.bair.org) has been operating since 1967 with headquarters in New Wilmington, Pennsylvania. It offers foster care, kinship care, adoption services, family services and behavior health services at more than 30 locations in Pennsylvania, Texas Virginia, South Carolina, North Carolina, Ohio, New Mexico and Kentucky. Its mission is to provide Christ-centered, quality care and services that restore and empower children, youth and families who are in crisis. It is being nonrenewed because the carrier is no longer willing to offer coverage to this type of organization.

Montclair Foundation, (https://montclairfoundation.org) Montclair, New Jersey has been in business for 27 years. They award grants to charitable organizations in the greater Montclair area. They also have the Van Vleck House & Gardens which is an old home and private gardens which are open to the public and rented out for special events for nonprofit organizations. They were nonrenewed by their commercial insurance carrier that is no longer willing to insure this type of exposure.

Patient Airlift Services, (www.palservices.org) Farmington, New York has been in business for 10 years. This organization provides free air transportation for humanitarian purposes by arranging transportation for those in need with volunteer pilots who donate their transportation services. They were nonrenewed because their current insurance carrier is no longer willing to offer coverage to this sort of organization.

Georgia Agape, Inc. (www.georgiaagape.org) Atlanta, Georgia is a faith-based foster care placement, adoption placement of infants and special needs children and unplanned pregnancy counseling and assistance. They have been operating since 1970. They were nonrenewed because the commercial carrier insuring them no longer insures organizations providing human service.

Flying V Ltd (www.flyingvtheatre.com) Bethesda, Maryland is a community theater that tries to support community by creating work that reflects the intimate struggles of the human condition through vivid, high concept metaphors and artistic vigor, we hope to shine a light on the loneliness and isolation that so many feel and create a sense of connection and wonder. They were nonrenewed because the commercial insurer no longer writes this class of business.

Care New Pregnancy Center of Central Texas (www.pregnancycare.org) Waco, Texas has operated since 2004 and serves more than 2,600 women each year through pregnancy testing and counseling. They also provide housing assistance for new or expectant mothers facing homelessness as well as providing such things as bath and bedding items, diapers, infant care items, infant clothing, formula, bottles and feeding accessories. They were nonrenewed by a commercial carrier that has decided to no longer offer coverage to this type of organization.

Genesis House for Homeless, Inc., Perry, Georgia is a group home for neglected or abandoned and homeless boys ages 6 to 18. It was nonrenewed by a commercial carrier no longer to provide insurance to human service organizations.

Behavioral Health Specialists, Inc. (www.4bhs.org) Norfolk, Nebraska provides mental health, substance abuse and addiction counseling and youth and family residential treatment at three locations. It provides additional community services including a crisis intervention line staffed 24 hours per day 7
days per week. It is accredited by the Joint Commission since 1998. Their previous commercial insurance carrier was unwilling to provide them with the coverage limits they required to fulfill municipal contract requirements.

Human Development Center (https://www.humandevelopmentcenter.org/) Superior, Wisconsin is a community mental health center that serves residents in four counties in northeastern Minnesota and one county in northwestern Wisconsin. Its mission is to strengthen communities by providing integrated, culturally respectful mental health and addiction services that foster hope, self-determination, and recovery. Services include psychiatry, psychotherapy, adult and child case management, and outreach services. Current carrier is nonrenewing the auto coverage and increasing the premium for their professional insurance by more than 30%.

TFI Family Services (www.tffamilyservices.org) Emporia, Kansas is a leading child welfare agency providing various types of services to the community including foster and kinship care, domestic and international adoption, counseling support and education, TIPS-MAPP training and visitation and exchange centers. Their commercial carrier offered a renewal but at an expected premium increase of 25%.

Goodwill Industries of Southeast Texas and Southwest Louisiana (www.goodwilltxla.org) Beaumont, Texas provides training and employment services to individuals who have disabilities and other barriers to employment. They were nonrenewed by a commercial insurer that is no longer willing to insure any social service nonprofits.

Friendship House, Inc., Kohler, Wisconsin is a group home providing housing, supervision and transportation for teen boys, many who have been adjudicated for various behavioral, drug/alcohol issues and mental health concerns. This is not a lock-down facility and has been in business for 79 years. They were nonrenewed because the commercial insurance company that insured them previously has decided to no longer insure organizations providing human service.

Pet Alliance of Greater Orlando, (www.petallianceorlando.org) Orlando, Florida is animal shelter and clinic employing nearly 100 people and providing care for more than 6,600 homeless dogs and cats each year. Innovative programs like the Pet Apartment Registry and Community Cat Initiative work to decrease the number of surrendered and homeless animals in Central Florida. Their commercial insurance company is no longer offering professional insurance coverage to nonprofits.

Homeless Emergency Project, (www.hepempowers.org) Clearwater, Florida has operated since 1986. Their mission is the break the cycle of homelessness for the thousands of people they help each year. They provide homeless and low-income individuals and families, including veterans, with housing, food, clothing and support services necessary to obtain self-sufficiency and improved quality of life. They note on their website that there was a 47% increase in homeless veterans in Tampa Bay during 2019. They were nonrenewed by a carrier no longer writing this type of nonprofit.

Viva Los Gatos Cat Rescue, Cleveland, Ohio is an all-volunteer organization that has been providing foster homes for cats for 20 years. They were nonrenewed by a commercial carrier that had a program for animal rescues and has cancelled the entire program.

Children’s Shelter (www.thechildrensshelter.org) Walnut Ridge, Arkansas has served 840 children since 2009. They provide 24-hour emergency temporary residential care to meet the critical need of
children who are victims of family violence, neglect or physical and/or sexual abuse. Children may stay with them up to 90 days. All children are referred by the Department of Human Services. They were nonrenewed by a commercial carrier no longer willing to offer coverage to nonprofits.

Helping Hands Humane Society, (www.hhhtopeka.org) Topeka, Kansas has operated for 130 years, since 1890. They facilitate adoption of healthy animals into responsible homes and reunite lost animals with their owners. They help reduce overpopulation through sterilization and serve the community through education and addressing animal welfare issues. They were nonrenewed by a commercial carrier that will no longer write this class of business.

Cuz I Matter Animal Rescue, (www.cuzimatter.org) Pflugerville, Texas is a dog fostering organization operating since 2016 and have facilitate 671 adoptions since their inception. They were nonrenewed by a commercial carrier no longer willing to offer coverage to dog fostering organizations.

Northwest Arkansas Economic Development District, (www.nwaedd.org) Harrison, Arkansas, was established in 1967 and subsequently funded in part by Arkansas Act 118 of 1969 based upon the template set by Congress in 1965, the Public Works and Economic Development Act. It is a nonprofit, multi-county, multi-purpose, and multi-funded Planning and Development Organization serving Baxter, Benton, Boone, Carroll, Madison, Marion, Newton, Searcy and Washington Counties. It was renewed by its commercial insurance company but was forced to take a $100,000 deductible on every claim. It moved to a risk retention group that provided them the insurance they need a zero deductible.
Congress Must Help In Community Nonprofit Insurance Crisis
By Eric Beck, John DeFazio, Kurt de Grosz, Jim Johnson, Richard Knudson Jr. and Peter Persuitti
(May 6, 2020, 5:56 PM EDT)

Even before the outbreak of COVID-19, the rising cost of property and casualty insurance in the U.S. had the potential for far-reaching economic consequences. Now, as we cope with a national health emergency, one sector on the frontlines is facing severe impact: 501(c)(3) nonprofits — especially small to midsize organizations.

Legislation being considered in Congress could fix the problem. It's time for opponents to stop standing in the way of important insurance innovation and do the right thing for the organizations that do so much for our communities.

The Children's Shelter is a well-established 501(c)(3) with a long tradition of caring for foster children as well as children who have experienced abuse. For the past several years, the nonprofit has been growing, so the CEO was prepared to see some increase in her insurance premiums. The quote she received of $750,000, however, a fourfold increase in just one year, was another matter. "My mouth hit the ground," CEO Annette Rodriguez told the Wall Street Journal.[1]

Recent statements by the National Association of Insurance Commissioners before Congress on the availability of insurance for nonprofits[2] do not paint the full picture of what we are seeing. The Children's Shelter is not alone. Nonprofits across the country are facing a very challenging insurance market. The crisis for nonprofits insurance is now.

There are 1.3 million 501(c)(3) charitable nonprofits according to the National Council of Nonprofits. Of those, 97% have budgets of less than $5 million annually and 88% spend less than $500,000 annually. These nonprofits are community-based and work on issues ranging from essential human services and community improvement to arts and culture. Many are now receiving or will soon receive nonrenewal notices from their insurance companies. Others will be offered renewals with tightened terms and conditions at skyrocketing premiums.

There are many factors contributing to rising premiums. After years of no increases, property and casualty carriers are raising rates and tightening their appetite for businesses they want to insure.
Especially hard-hit are nonprofits who work with animals, children and senior citizens, and disabled individuals. Also impacted are nonprofits with camps, residential facilities such as domestic violence shelters, and addiction treatment programs.

Another factor contributing to the insurance crisis is social inflation: high dollar-value jury awards in cases of sexual and physical abuse. Yet another is changes in statutes of limitations with respect to child sex-abuse victims, which creates lookback windows allowing now-adult victims to sue perpetrators and institutions years after the alleged crimes took place. These developments add uncertainty to insurance carrier liability, and the inability of carriers to accommodate for these developments creates a perfect storm for nonprofits.

Our firms help many tens of thousands of nonprofits find insurance that meets their specific operating needs. We represent some of the largest insurance brokerages in the country. Our clients serve the most vulnerable populations in our communities, alleviating dire situations. Property and casualty insurance that is consistently available and affordable is essential for these nonprofits to operate. Animal rescue facilities, foster family agencies, transportation providers of medically fragile people, and emergency housing nonprofits, to name a few, all need adequate and affordable insurance. Insurance is like electricity — even short disruptions in continuous service can cause chaos.

It is not easy to find carriers willing to insure nonprofits. One of us works for a firm that has access to more than 150 insurance carriers, yet only 3% of them offer the specialized coverage nonprofits need. Thankfully, the insurance marketplace has evolved significantly and is no longer a monolithic marketplace made up solely of one type of carrier. The alternative risk transfer market, as differentiated from traditional for-profit commercial insurance companies, is made up of insurers and insurance options that are very good at addressing risks that traditional insurers disfavor. According to AM Best, the leading rating agency for the insurance industry, alternative types of insurance have been outperforming the commercial sector on many important financial measures.[3]

One type of insurance carrier alternative that is vital to nonprofits and other specialized business sectors is a risk retention group. During the insurance crisis decades ago, Congress recognized the need for new methods of insuring risk and enacted the Liability Risk Retention Act of 1986. The LRRA allows the formation of risk retention groups by organizations or individuals engaged in a similar business or activity such as nonprofits, doctors, dentists, acupuncturists, educational institutions, and many other types of organizations. Risk retention groups are a market-driven solutions, enabled by informed legislation, but sustained by fundamental business principles and financial oversight.

According to the Vermont Department of Financial Regulation, a leading regulator of these alternatives, risk retention groups have the same financial requirements as traditional carriers in meeting risk-based capital standards and use the same formula to calculate and report their risk-based capital. Risk retention groups are also required to use the same standard as traditional insurance companies regarding valuing investments, final audit requirements, actuarial opinion requirements, and annual and quarterly financial filings with the NAIC.
Today, nonprofits face an insurance crisis reminiscent of the availability and affordability crisis that occurred in the mid-1980s. To address this, Congress in January held a hearing titled "Examining the Availability of Insurance for Nonprofits." Legislation pending before the House Financial Services Committee, H.R. 4523, Nonprofit Property Protection Act, would allow well-established risk retention groups to provide their members with additional types of insurance that traditional insurance companies are unwilling or unable to provide.

Market-driven innovation is as important today as it was 35 years ago. We applaud the effort of U.S. Reps. Lacy Clay, D-Mo., and Al Green, D-Texas, to champion solutions that will alleviate the insurance crisis for nonprofits and encourage Congress to act before it's too late to protect community-based nonprofits.

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SPECIAL REPORT

Financial Regulation of Risk Retention Groups
By David Provost, deputy commissioner of captive insurance
at the Vermont Department of Financial Regulation

In order to promote a uniform and effective nationwide regulatory framework, the states and jurisdictions that comprise the National Association of Insurance Commissioners (NAIC) have developed the NAIC Financial Regulation Standards and Accreditation Program. In order to become an accredited jurisdiction, states must meet certain standards deemed necessary to build a sound regulatory framework: Regulators must have adequate statutory and administrative authority to regulate an insurer's corporate and financial affairs; regulators must have the necessary resources to carry out that authority; and insurance departments must have in place organizational and personnel practices designed for effective regulation. More information on the NAIC accreditation program is available at:

http://www.naic.org/documents/committees_f_FRSA_pamphlet.pdf

States that charter Risk Retention Groups as captives are subject to financial regulation standards that are essentially the same, with some modifications and adaptations ("accreditation interlineations") to meet the unique needs and conditions of the RRG marketplace and to comport with the Liability Risk Retention Act. A comparison of the accreditation standards for traditional companies and RRGs follows.

Part A: Laws and Regulations

1. Examination Authority

Traditional Regulation: The insurance department should have authority to examine companies whenever it is deemed necessary. State law must include the NAIC Model Law on Examinations or substantially similar provisions.

Risk Retention Group Regulation: Identical.

2. Capital and Surplus Requirement

Traditional Regulation: The insurance department should have the ability to require insurers to maintain a minimum level of free surplus to transact business. The insurance department should have the authority to require additional surplus based upon the type, volume, and nature of insurance business transacted. The Risk-Based Capital for Insurers Model Act or provisions substantially similar should be included in state laws or regulations.

Risk Retention Group Regulation: Identical. It should be noted that captive RRGs are likely to have lower statutory minimum requirements, but the floor is moot for most companies, RRG or otherwise. There are also certain accepted deviations (accreditation interlineations) from RBC action levels if the RRG has a financially sound parent organization.

3. Accounting Practices and Procedures

Traditional Regulation: The insurance department should require that companies reporting to the department file the appropriate NAIC Annual Statement Blank, prepared in accordance with the NAIC's Instructions Handbook, and following the accounting procedures and practices prescribed by the NAIC Accounting Practices and Procedures Manual.

Risk Retention Group Regulation: The insurance department should require that RRGs reporting to the Department file the appropriate NAIC Annual Statement Blank which should be prepared in accordance with the NAIC’s Instructions Handbook, as applicable. The RRGs should follow those accounting procedures and practices prescribed by the NAIC Accounting Practices and Procedures Manual or another basis of accounting as permitted or prescribed by state law or regulation. Some states permit or require the use of Generally Accepted Accounting Principles.

4. Corrective Action

Traditional Regulation: State law should contain the NAIC's Model Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition or substantially similar provisions authorizing the insurance department to order a company to take corrective action or cease and desist certain practices which could place the company in a hazardous financial condition.

Risk Retention Group Regulation: Identical.

5. Valuation of Investments

Traditional Regulation: The insurance department should require that securities owned by companies be valued in accordance with those standards promulgated by the NAIC's Capital Markets and Investment Analysis Office. Other invested assets should be required to be valued in accordance with the procedures promulgated by the NAIC's Financial Condition (E) Committee.

Appendix IV
**6. Holding Company Systems**

**Traditional Regulation:** State law should contain the NAIC Insurance Holding Company System Regulator Act and its accompanying model regulation or substantially similar provisions.

**Risk Retention Group Regulation:** Identical.

**7. Risk Limitation**

**Traditional Regulation:** State law should prescribe the maximum net amount of risk to be retained by a property and liability company for an individual risk based upon the company’s capital and surplus. This limitation should be no larger than 10% of the company's capital and surplus.

**Risk Retention Group Regulation:** State law should provide the state insurance department with clear authority in statute or regulation to limit the net amount of risk retained for an individual risk. In some states RRGs are not subject to an arbitrary risk limitation.

**8. Investment Regulations**

**Traditional Regulation:** State statute should require a diversified investment portfolio for all companies both as to type and issue and include a requirement for liquidity.

**Risk Retention Group Regulation:** Identical.

**9. Liabilities and Reserves**

**Traditional Regulation:** State statute should prescribe minimum standards for the establishment of liabilities and reserves resulting from insurance contracts issued by an insurer; including life reserves, unearned premium reserves, and liabilities for claims and losses unpaid and incurred but not reported claims. The NAIC’s Standard Valuation Law, Actuarial Opinion and Memorandum Regulation and Property and Casualty Actuarial Opinion Model Law or substantially similar provisions shall be in place.

**Risk Retention Group Regulation:** State statute should prescribe minimum standards for the establishment of liabilities and reserves resulting from insurance contracts issued by an RRG; including unearned premium reserves and liabilities for claims and losses unpaid and incurred but not reported claims. The NAIC’s Property and Casualty Actuarial Opinion Model Law or substantially similar provision shall be in place. Note: The LRRA prohibits RRGs from issuing policies of life insurance.

**10. Reinsurance Ceded**

**Traditional Regulation:** State law should contain the NAIC Credit for Reinsurance Model Law, the NAIC’s Credit for Reinsurance Model Regulation or substantially similar laws.

**Risk Retention Group Regulation:** State law should contain the NAIC Credit for Reinsurance Model Law, the NAIC’s Credit for Reinsurance Model Regulation or substantially similar laws. Specific additional regulations have been developed for RRGs when obtaining reinsurance from affiliates or other reinsurers that may not meet the traditional guidelines.

**11. CPA Audits**

**Traditional Regulation:** State statute or regulation should contain a requirement for annual audits of domestic companies by independent certified public accountants that is substantially similar to the NAIC Annual Financial Reporting Model Regulation.

**Risk Retention Group Regulation:** Identical.

**12. Actuarial Opinion**

**Traditional Regulation:** State statute or regulation should contain a requirement for an opinion on loss and loss adjustment expense reserves by a qualified actuary or specialist annually for all domestic RRGs.

**Risk Retention Group Regulation:** Identical.

**13. Receivership**

**Traditional Regulation:** State law should set forth a receivership scheme for the administration, by the insurance commissioner, of insurers found to be insolvent similar to the NAIC’s Insurer Receivership Model Act (#555).

**Risk Retention Group Regulation:** Identical.

**14. Guaranty Funds**

**Traditional Regulation:** State law should provide for a regulatory framework such as that contained in the NAIC’s model acts on the subject, to ensure the payment of policyholders’ obligations subject to appropriate restrictions and limitations when a company is deemed insolvent.

**Risk Retention Group Regulation:** RRGs are prohibited from participating in guaranty funds by the LRRA.

**15. Filings with NAIC**

**Traditional Regulation:** State statute, regulation, or practice should mandate filing of annual and quarterly statements with the NAIC in a format acceptable to the NAIC except that states may exempt from this requirement insurers that operate only in their state of domicile.

**Risk Retention Group Regulation:** Identical.
16. Producer Controlled Insurers

Traditional Regulation: States should provide evidence of a regulatory framework, such as that contained in the NAIC's Model Law for Business Transacted with Producer Controlled Property/Casualty Insurer Act or similar provisions.

Risk Retention Group Regulation: Identical.

17. Managing General Agents Act

Traditional Regulation: States should provide evidence of a regulatory framework, such as that contained in the NAIC’s Managing General Agents Act or similar provisions.

Risk Retention Group Regulation: Identical.

18. Reinsurance Intermediaries Act

Traditional Regulation: States should provide evidence of a regulatory framework, such as that contained in the NAIC's Reinsurance Intermediary Model Act or similar provisions.

Risk Retention Group Regulation: Identical.

19. Regulatory Authority (proposed accreditation standard)

Traditional Regulation: State law should provide for a regulatory framework for the organization, licensing, and change of control of domestic insurers.

Risk Retention Group Regulation: Identical.

20. Corporate Governance (proposed accreditation standards)

Traditional Regulation: State adoption of the Corporate Governance Annual Disclosure Model Act and accompanying regulation is expected to become an accreditation standard in 2016.

Risk Retention Group Regulation: Detailed Corporate Governance Standards for Risk Retention Groups have been developed by an NAIC working group and will be an accreditation standard effective January 1, 2017.

Part B: Regulatory Practices and Procedures

Part B outlines similar standards for the financial examination process, requiring evidence of sufficient staffing, use of appropriate procedures, and adherence to the NAIC Financial Condition Examiners Handbook for the conduct of risk-focused examinations. The only significant difference between traditional company examinations and RRG examinations derives from the single-state nature of RRG regulation: the state of domicile of the RRG normally conducts examinations without coordinating with other states.

The third section of the Part B standards deals with Information Sharing and Procedures for Troubled Companies. There is no distinction made between traditional companies and RRGs in the standards.

Part C: Organizational and Personnel Practices

Part C standards require insurance departments to have a policy that encourages the professional development of staff through college courses, professional designation programs, or other training programs. Part C also requires the establishment of minimum educational and experience requirements for all staff commensurate with the duties and responsibilities of their positions. Last, the department should be able to attract and retain qualified personnel.

Part D: Organization, Licensing, and Change of Control of Insurers

Part D standards only apply to traditional life/health and property/casualty insurers, and do not apply to health maintenance organizations, health service plans, and captive insurers, including captive RRGs. However, the standards are straightforward, requiring qualified staff, sufficient resources, and documented procedures for the licensing of new companies. The standards, which are not yet considered an accreditation requirement, should be easily met by any accredited state accepting applications for new companies, traditional or RRG.
Statistical Reporting Filings

NAIC 2023 Spring National Meeting
Property & Casualty (C) Committee
March 24, 2023

Jo A. LeDuc, CIE, MCM, CPCU, FLMI, AIDA
Director, Insurance Market Regulation Division
Jo.LeDuc@insurance.mo.gov
Data Collection

• Collection Method Varies Depending on Data Set
  • Predominately Electronic Submission
    • TXT File
    • Online Submission Portal
  • Hard Copy Submissions
    • Fillable PDF Documents

• Challenges
  • Missed/Late Filings
  • Data Entry/Loading Data Time Consuming
  • Data Integrity

• Analysis
  • Statistical Unit
  • SAS
  • Highly Automated
Uses

• Published Reports ([https://insurance.mo.gov/reports/](https://insurance.mo.gov/reports/))
  • Annual Reports
  • Special Reports

• Transparency
  • Online Look-up
  • Aggregated Data Sets Available

• Regulatory Efforts
  • Market Analysis
  • Investigations/Examinations
  • Consumer Outreach Efforts
Statistical Reports

• Annual Property & Casualty Insurance Public Reports
  • Homeowners Insurance Report
  • Legal Malpractice Report
  • Medical Malpractice Report
  • Mortgage Guaranty Insurance Report
  • Private Passenger Automobile Report
  • Product Liability Report
  • Property & Casualty Supplement Data Report
  • Real Estate Malpractice Report

• Special Property & Casualty Insurance Public Reports
  • Residential Earthquake Coverage in Missouri
  • Private Passenger Automobile Insurance: A Review of the Market in Missouri (July 2018)

• Available Online - https://insurance.mo.gov/industry/filings/stats/reports.php
Schedule of Filings for Statistical Reporting

• Available Online - https://insurance.mo.gov/industry/filings/stats/statreprt.php

• Statutory Authority to Collect

• Property & Casualty Data Collections
  • Annual Statement: Page 19 Supplement
  • Commercial Liability Profitability/Loss Development/Closed Claims
  • Dram Shop Liability Insurance Premium/Losses
  • Legal Malpractice Open/Closed Claims
  • Medical Malpractice Open/Closed Claims
  • Missouri Zip Code Data
  • Mortgage Guaranty Premium/Losses
  • Products Liability Closed Claims
  • Real Estate Open/Closed Claims
Liability Based Reports

• Data Collected
  • Premium
    • Written
    • Earned
    • Policyholder Dividend
  • Loss
    • Claim Counts
      • Paid
      • Closed Without Payment
      • Unpaid
    • Losses Amounts
      • Paid
      • Reserves
      • Partial Payments

• Level of Detail Varies
  • Type of Coverage
  • ISO Class Code
  • Individual Claim
    • Amounts
    • Categorized Amounts
    • Descriptive Claim Information
Annual Statement: Page 19 Supplement

• Based On the Financial Annual Statement – State Page
• Collects Similar Information
  • Direct Premiums Written
  • Direct Premiums Earned
  • Direct Defense & Cost Containment Expense Incurred
  • Direct Losses Paid
  • Direct Losses Incurred
• Different Level of Detail
  • Granularity Varies By Line of Business
  • Reconciles Back to State Page
See Premium and Loss Trends at a More Granular Level

### Private Auto - Comprehensive

<table>
<thead>
<tr>
<th>Year</th>
<th>Premium Written</th>
<th>Direct Losses Paid</th>
<th>Loss Ratio</th>
<th>Losses Incurred</th>
<th>Loss Ratio</th>
<th>% Change from Prior</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$508,767,073</td>
<td>$525,177,476</td>
<td>103.2%</td>
<td>$527,242,547</td>
<td>105.3%</td>
<td>.</td>
</tr>
<tr>
<td>2013</td>
<td>$540,138,506</td>
<td>$273,583,115</td>
<td>50.7%</td>
<td>$271,741,548</td>
<td>51.4%</td>
<td>6.2%</td>
</tr>
<tr>
<td>2014</td>
<td>$572,783,491</td>
<td>$362,643,463</td>
<td>63.3%</td>
<td>$365,157,271</td>
<td>65.0%</td>
<td>6.0%</td>
</tr>
<tr>
<td>2015</td>
<td>$612,182,831</td>
<td>$385,680,063</td>
<td>63.0%</td>
<td>$391,155,386</td>
<td>65.5%</td>
<td>6.9%</td>
</tr>
<tr>
<td>2016</td>
<td>$649,979,998</td>
<td>$448,146,288</td>
<td>68.9%</td>
<td>$453,040,863</td>
<td>71.3%</td>
<td>6.2%</td>
</tr>
<tr>
<td>2017</td>
<td>$677,764,865</td>
<td>$491,122,174</td>
<td>72.5%</td>
<td>$498,129,142</td>
<td>75.8%</td>
<td>4.3%</td>
</tr>
<tr>
<td>2018</td>
<td>$722,138,819</td>
<td>$359,646,309</td>
<td>49.8%</td>
<td>$355,466,251</td>
<td>50.0%</td>
<td>6.5%</td>
</tr>
<tr>
<td>2019</td>
<td>$780,058,523</td>
<td>$461,897,951</td>
<td>59.2%</td>
<td>$468,039,545</td>
<td>61.1%</td>
<td>8.0%</td>
</tr>
<tr>
<td>2020</td>
<td>$763,130,248</td>
<td>$528,888,439</td>
<td>67.5%</td>
<td>$532,211,829</td>
<td>67.8%</td>
<td>0.4%</td>
</tr>
<tr>
<td>2021</td>
<td>$861,872,257</td>
<td>$492,222,914</td>
<td>57.1%</td>
<td>$503,827,172</td>
<td>59.8%</td>
<td>10.1%</td>
</tr>
</tbody>
</table>

### Private Auto - Collision

<table>
<thead>
<tr>
<th>Year</th>
<th>Premium Written</th>
<th>Direct Losses Paid</th>
<th>Loss Ratio</th>
<th>Losses Incurred</th>
<th>Loss Ratio</th>
<th>% Change from Prior</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$775,031,437</td>
<td>$466,017,354</td>
<td>60.1%</td>
<td>$460,473,571</td>
<td>60.1%</td>
<td>.</td>
</tr>
<tr>
<td>2013</td>
<td>$800,954,415</td>
<td>$482,384,706</td>
<td>60.2%</td>
<td>$486,066,310</td>
<td>61.3%</td>
<td>3.3%</td>
</tr>
<tr>
<td>2014</td>
<td>$837,759,415</td>
<td>$533,907,399</td>
<td>63.7%</td>
<td>$536,409,422</td>
<td>64.8%</td>
<td>4.6%</td>
</tr>
<tr>
<td>2015</td>
<td>$897,518,738</td>
<td>$571,577,101</td>
<td>63.7%</td>
<td>$579,088,060</td>
<td>66.1%</td>
<td>7.1%</td>
</tr>
<tr>
<td>2016</td>
<td>$961,184,400</td>
<td>$612,509,979</td>
<td>63.7%</td>
<td>$625,696,270</td>
<td>66.4%</td>
<td>7.1%</td>
</tr>
<tr>
<td>2017</td>
<td>$1,052,870,447</td>
<td>$643,177,468</td>
<td>61.1%</td>
<td>$635,220,992</td>
<td>61.2%</td>
<td>9.5%</td>
</tr>
<tr>
<td>2018</td>
<td>$1,096,570,480</td>
<td>$682,098,270</td>
<td>62.2%</td>
<td>$681,007,930</td>
<td>62.8%</td>
<td>4.1%</td>
</tr>
<tr>
<td>2019</td>
<td>$1,124,319,188</td>
<td>$715,038,335</td>
<td>63.6%</td>
<td>$721,110,083</td>
<td>64.0%</td>
<td>2.5%</td>
</tr>
<tr>
<td>2020</td>
<td>$1,133,456,770</td>
<td>$660,034,154</td>
<td>53.0%</td>
<td>$599,316,612</td>
<td>53.5%</td>
<td>0.8%</td>
</tr>
<tr>
<td>2021</td>
<td>$1,193,763,877</td>
<td>$805,339,452</td>
<td>67.5%</td>
<td>$830,787,144</td>
<td>71.0%</td>
<td>5.3%</td>
</tr>
</tbody>
</table>
Missouri Zip Code Data

• Long Standing Data Collection Process
• Statutory Requirement (§ 374.405, RSMo)
• Premiums and Loss Data
• Reported Annually

• Lines of Business
  • Homeowners/Dwelling Fire
  • Farmowners (Dwelling Only, No Adjacent Structures, Animals, Crops, etc.)
  • Mobile Homes
  • Earthquake (including both endorsements and stand-alone coverage)
  • Private Passenger Automobile
    • Includes Comprehensive, Collision & Liability (reported separately)
    • Excludes Motorcycles, Recreational Vehicles, Fleet Autos, Snowmobiles, Trailers, Motorhomes & Antique Autos.
Missouri Zip Code Data (Continued)

• Reported By Zip Code
• Primary Data Elements
  • Written Premium
    • Based on Policy Effective Date
  • Written Exposures
    • House/Car Months Written
  • Loss Counts
    • Number of Paid Losses
    • Year Final Payment Made
  • Paid Loss Amounts
    • Less Salvage & Subrogation Amounts
    • Excluding Loss Adjustment Expenses
Missouri Zip Code Data (Continued)

Property
• Policy Type – Policy Form Type
• Loss Type
  • Fire, Lightning and Removal
  • Wind & Hail
  • Burglary & Theft
  • All Other
• Insured Value Range
  • Insured Value of Primary Structure
  • Predefined Coverage Limit Groupings

Auto
• Policy Type – Driver Risk Class
• Loss Type
  • Comprehensive
  • Collision
  • Liability
• Insured Value Range
  • Comp/Collision - ISO Symbols
  • Liability – Predefined Coverage Limit Groupings
Missouri Zip Code Data (Private Passenger Auto)

Average Annual Premium
Cost of Insuring One Vehicle For One Year)
Missouri Zip Code Data (Private Passenger Auto)

Estimated % of Licensed Vehicles Without Mandatory Liability Insurance
Missouri Zip Code Data (Private Passenger Auto)

Automobile Insurance Agents per 1,000 Residents

• Indication of Availability
Missouri Zip Code Data (Private Passenger Auto)

Market Concentration

• Herfindahl-Hirschman Index (HHI)

• Traditional Measure of Market Concentration
Missouri Zip Code Data (Homeowners Premium Data)
Missouri Zip Code Data (Homeowners Loss Data)
Missouri Zip Code Data (Earthquake Data)

- Low Take Up
  - 2021 = 8.8%
- Average Premium for $110k – $140k
  - 2021 = $435
- Lower Income
- Higher Poverty Level
- Lower Education Rates
QUESTIONS

Brent Kabler | Brad Gerling
statistics@insurance.mo.gov
Regulatory Data Calls

March 24, 2023

• Aaron Brandenburg, NAIC
NAIC Data Calls

• Auto Insurance – 2019/20
• Business Interruption – 2020
• Private Flood – 2020, transitioned to Annual Statement in 2021
• Terrorism Insurance – 2016 - ongoing
• State Post-Disaster Data Calls – as needed
Auto Insurance - 2019/20

• Collected directly from statistical agents
• Aggregated – not company-specific
• ZIP Code level
• Premiums and losses compared to demographic data
• Public report released
Business Interruption - 2020

- Data call related to pandemic
- Companies writing business interruption coverage
- Premiums and claims data collected
- Collected data by small, medium and large policyholder size
- Aggregated report released
Private Flood Insurance - 2020

- Data Call in 2020, 2018 and 2019 data
- Commercial and residential broken out, as well as standalone, first dollar, excess and endorsement
- Premiums, policy counts, claims, losses
- Data collection continued in 2021 (2020 data) on Annual Statement
- Data presented in online report annually
Terrorism Insurance - 2016

• Commercial insurers writing in TRIP lines
• Became joint data call with Treasury in 2018
• Data is sent through New York portal
• Data aggregated and analyzed by NAIC
Post Disaster Data Calls

• Individual states issue as needed, following a disaster
• Data collected by NAIC’s Regulatory Data Collection (RDC) system
• Claims data collected at ZIP Code level
• Data aggregated by NAIC for use by states
Questions?

abrandenburg@naic.org