NATIONAL COUNCIL OF INSURANCE LEGISLATORS
SPECIAL COMMITTEE ON NATURAL DISASTER RECOVERY
CHARLOTTE, NORTH CAROLINA
MARCH 6, 2020
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Special Committee on Natural Disaster Recovery met at the Charlotte Marriott City Center Hotel in Charlotte, North Carolina on Friday, March 6, 2020 at 2:30 p.m.

Senator Vickie Sawyer of North Carolina, Chair of the Committee, presided.

Other members of the Committees present were:

Rep. Matt Lehman (IN)
Rep. Tom Oliverson, M.D. (TX)

Other legislators present were:

Asm. Ken Cooley (CA)
Sen. Jack Tate (CO)
Sen. Angela Williams (CO)
Rep. Martin Carbaugh (IN)
Sen. Paul Utke (MN)
Sen. Paul Lowe (NC)
Rep. Garland Pierce (NC)
Rep. Stephen Ross (NC)
Rep. Wayne Sasser (NC)
Sen. Jerry Klein (ND)
Sen. Shawn Vedaa (ND)
Asw. Connie Munk (NV)
Sen. Robert Ortt (NY)
Sen. Bob Hackett (OH)
Sen. Bob Peterson (OH)

Also in attendance were:

Commissioner Tom Considine, NCOL CEO
Will Melofchik, NCOIL General Counsel
Cara Zimmermann, Assistant Director of Administration, NCOIL Support Services, LLC

QUORUM

Upon a motion made by Rep. Matt Lehman (IN), NCOIL President, and seconded by Rep. Tom Oliverson, M.D. (TX), the Committee waived the quorum requirement without objection by way of a voice vote.

MINUTES

Upon a motion made by Rep. Lehman and seconded by Rep. Oliverson, the Committee approved the minutes of its December 11, 2019 meeting in Austin, TX without objection by way of a voice vote.

CONTINUED DISCUSSION ON NCOIL PRIVATE FLOOD INSURANCE MODEL ACT

Sen. Vickie Sawyer (NC), Chair of the Committee, stated that the Committee has been working on the development of the NCOIL Private Flood Insurance Model Act (Model) that would facilitate the expansion of the private flood insurance market. A document which is the result of discussion and compromise between several interested parties has also been proposed as a strike all amendment to the original Model. Sen. Sawyer noted that the Committee will discuss today the strike-all amendment document and what the main differences are between it and the original Model. The goal is to have a Model ready for a final vote at our Summer Meeting in July in New Jersey.

Dennis Burke, VP of State Relations at the Reinsurance Association of America (RAA), stated that the P&C industry seldom agrees on anything but one thing that it does agree on is that there are not enough customers who are protected against flooding. They don't have enough choices and there is a huge protection gap. The P&C industry wants to see if the private industry can help close that gap. A group was convened that consisted of insurers, agents, reinsurers and lenders: RAA, the American Property Casualty Insurance Association (APCIA), the National Association of Mutual Insurance Companies (NAMIC), the Wholesale Specialty Insurance Association (WSIA), the Independent Insurance Agents & Brokers of America (IIABA), the National Association of Professional Insurance Agents (PIA), and the American Bankers Association (ABA). That group essentially agrees on what is euphemistically being called a strike-all amendment to the Model.

Generally, the most important thing about the document is that the group has come to an agreement on it. The document is recast as the Private Primary Residential Flood Insurance Model Act because the group believes that is the target that is being aimed at and those are the people that need to buy flood insurance to get their mortgages. By aiming it at that particular market segment, all of the other market segments that are actually operating right now in the private market wont have to have caveats included in the document to address them to make sure that they are not interfered with. Mr. Burke stated that the document is not an industry wish list. Rather, it reflects compromise and concerns raised by regulators and legislators through a number of discussions. The document borrows from Florida law, which was the original basis for the Model, and from conversations that led to the South Carolina bill. The group believes that the document is fair and balanced, encourages the Committee to read it, and recommends it for passage. Nevertheless, not everything was agreed upon and at the end of the document there are a couple of points that NAMIC would like to raise to ask for inclusion in the document.

Wes Bissett, Senior Counsel, Gov't Affairs at IIABA, stated that there were some members of the group that do not think there is a need for a model law in this area but the IIABA views it as an opportunity to do things to foster the growth of the private flood insurance market and to remove barriers that might exist in regulation today of that market. There are also some unique and anomalous issues that are specific to private flood insurance that can be addressed. One example that is included in the document relates to the fact that in the National Flood Insurance Program (NFIP) there is a continuous coverage requirement – if you qualify for a subsidy in the NFIP you must maintain continuous coverage or you will lose that subsidy. So, there is a unique question as it relates to private flood insurance: what happens if I leave the NFIP, buy a private flood insurance policy, and then seek to go back to the NFIP. The reality is that under current federal law, you would lose that subsidy.

Accordingly, one thing built into the document is a disclosure requirement that agents would be obligated to disclose as long as this situation exists to bring this fact to the attention of a person who is interested in a private flood insurance policy. As you can imagine, the typical person may not be aware of this fact and it is very significant. That is a disclosure requirement in the document that agents would have to address if they were selling a private flood insurance policy. Mr. Bissett also noted that the document also contains a provision which states that if federal law were to change and the subsidy issue was not the case anymore, then the disclosure obligation would essentially evaporate.

Mr. Bissett stated that another issue that is unique to private flood insurance is that to get into the NFIP today, in most instances there is a 30 day waiting period. If you want to buy an NFIP policy, you cant do it and have that coverage take effect tomorrow – there is a 30 day waiting period. The question becomes: what happens if I leave the NFIP, buy a private flood insurance policy, and then that is cancelled? If you are in a state where there is only a 30 day cancellation requirement you would have no opportunity to get back into the NFIP as there would be a gap in coverage. Accordingly, the document contains a provisions which states that in states that have a 30 day cancellation notice requirement, that would be raised exclusively for private flood insurance policies to 45 days so that you would at least have a little gap in time if you did get cancelled and you could try and get back into the NFIP. Mr. Bissett urged the Committee to consider the document going forward.

Erin Collins, VP of State Affairs at NAMIC, thanked the group for working on the document and agreed with Mr. Burke's statement that the document is fair and balanced and indicative of the needs of policyholders as well as meeting the objective to foster a private flood insurance market, especially when considering the challenges that are faced by policyholders and the community with the challenges of the NFIP. The document is a good piece of legislation and NAMIC encourages the Committee to adopt it. Ms. Collins then referenced the drafting note proposed by NAMIC in the document which NAMIC also encourages the Committee to include. The drafting note simply asks that policyholders should consider a provision for insurers to look at prior loss history including weather-related losses. NAMIC believes that is an important component of looking at these issues. NAMIC is supportive of the document, supportive of the process that led to its drafting, and encourages the Committee to adopt it as soon as possible.

PRESENTATION ON NATURAL DISASTER MITIGATION EFFORTS

Lynne Grinsell, Asst. VP of Gov't and Industry Affairs at Zurich North America, stated that even as many leaders work to address climate change and reduce its impacts, severe weather and wildfires are not going away. Hazards may be natural, but disasters are not always inevitable. This is why Zurich strives to be at the leading edge of understanding risk, by applying lessons learned from studying disasters and helping customers and communities reduce the devastation from these events and build back better. Zurich uses Post Event Review Capability (PERC) which provides an overview post-event and provides findings and learnings for those who need to build in more resiliency back into their communities.

Zurich's latest report is titled California Fires: Building Resiliency from the Ashes which focuses on lessons learned and opportunities to build resilience following the historic 2017 and 2018 wildfire seasons, the most destructive in the state's recorded history. The report was written in collaboration with Zurich, DuPont and the nonprofit Institute for Social and Environmental Transition (ISET-International). The Zurich/DuPont/ISET research team spent approximately six months studying the impact of wildfires in California, entailing interviews with more than 50 community members, public officials and other stakeholders on the ground in California as well as a review of other research and secondary sources. Ms. Grinsell stated that many people are recognizing that climate-related risks are a problem yet have no idea how they can help build resilience through their own actions. With this report Zurich is helping them navigate that chasm.

This PERC methodology was collaboratively developed in 2013 with research partners involved in Zurich's Flood Resilience Alliance, an innovative program funded by Zurich's foundation. It links academic insights, humanitarian sector capabilities and Zurich's own skills and knowledge in risk mitigation to help create resilient communities. As an aside, the PERC methodology is an open source and available to anyone who would like to conduct a post-event review. Zurich leveraged the PERC framework to study the growing peril of wildfires. This was Zurich's first wildfire report in the U.S. and Zurich found that many of the lessons learned from doing post-event flood reports applied to wildfires as well. Zurich focused its initial post-event reviews on floods because floods affect more people globally than any other natural hazard.

Ms. Grinsell stated that wildfires present a number of complexities that make it difficult to assess their risk. Weather, fuels, topography, and exposure all play a role in how weather influences a fire's intensity, severity, and scale. Addressing future wildfire risk will require thinking critically about which risk factors we can effectively and meaningfully address. Living in the Wildland Urban Interface means a number of actions need to be taken into consideration such as maintaining forest health and defensible space. For example, decades of fire suppression have led to a buildup of fuel. In recent decades, controlled burns have taken place. Even so, there is a lot of acreage to treat, and we must mitigate strategically to reduce wildfire intensity in critical areas and also create defensible space around structures and assets. The 2017 wildfires in California burned at record catastrophic rates. At the time, 2017 was the most destructive wildfire season on record in California. The following year became the deadliest and most destructive wildfire season ever recorded in the state, with 8,054 fires burning over 1.8 million acres.

Ms. Grinsell then discussed some key findings from the report. Most broadly, communities must reduce risk and increase resilience. There are multiple components that contribute to communities' exposure to wildfire risk. These include: Sparks from power lines; Continued development in the wildland-urban interface (WUI); Insufficient action to “harden” homes and other structures against wildfires; Gaps in insurance coverage; and Shared management/maintenance of land in the WUI. The first key finding related to building codes. Luckily, California has already taken a leadership role in the U.S. on wildfire hazard and risk, in part through statewide fire hazard mapping and Chapter 7A building codes which prescribe fire-resistant building standards in certain areas designated as high fire hazard severity zones. The codes regulate how structures are constructed and what materials to use to reduce the risk of ignition. Zurich believes that codes should be applied and enforced in more areas: In many blazes, wind-driven embers have ignited structures well beyond the boundaries of high fire hazard severity zones. Zurich understands that such measures can increase fire resistance, they do not on their own eliminate the risk of loss. For example, of 350 homes built to the Chapter 7A codes in Paradise, 51% survived the Camp Fire. That compares with 18% survival of the 12,100 homes built prior to 2008 when the codes were enacted. Further, a 2018 study by Headwaters Economics found that constructing a new home to comply with fire-resistant standards costs approximately the same amount as constructing a similar “typical” home. The city of Paradise is actually in a unique position right now because they are going to have to rebuild a lot and it’s all new constructions so they can actually rebuild the homes to these fire resistant standards Chapter 7A codes.

Ms. Grinsell stated that one of the biggest problems is urban sprawl which is moving into the wildland areas. It is really tough to control but local laws and ordinances are needed to ensure that everyone is being as proactive as possible to reduce some of these risks of losses in areas that are vulnerable to things like wildfires (and hurricanes, for that matter). Incentives can include using public lands, parks and playing fields to create buffer zones that slow the spread of fire and prohibiting building in areas that are too steep, prone to dangerous winds. But a lot of it is building additional resiliency into the communities situated in wildland areas. If you are building into an area that is very dry you should take down more vegetation than you would normally.

Planning for recovery and promoting preparedness is also important – having the “what if” discussion is vital. Residents, governments, businesses and organizations need to consider fire behavior beyond the worst-case scenario. The Camp Fire, for example, led to the contamination of Paradise’s water system with benzene. Utilities should broaden their thinking about potential vulnerabilities as part of their planning. When building resiliency, special attention should also be made to infrastructure which includes power, wastewater removal, communications, and transportation. Attention should be paid to what can fail and what actions can be taken in advance of disaster and in reconstruction to increase robustness and redundancy.

Community actions are also important. Wildfire-prone areas need to develop a culture of wildfire mitigation to reduce collective fire risk. Maintaining defensible space may be obvious but that can help an ember from sparking shrub or getting into an attic and sparking homes. Regulatory activity helps. Because if as a homeowner I do my work, build as resistant a home as possible, maintain defensible space and stay aware of my risk, but my neighbor or my community doesn’t, they increase my risk and everybody loses. This is different than flooding because in a flood situation, if I maintain my house in a flood to be flood resilient and my neighbor does not, that won’t affect me – but in a wildfire, all bets are off. The community needs to do this together.

Ms. Grinsell stated that planning at the regional level is also important. In addition to California, states including Montana, Colorado and New Mexico have an above-average percentage of households at high or extreme fire risk. It would be great for everyone to learn together. California has mapped wildfire hazard across the state, they’ve instituted the Chapter 7A building codes for the highest risk zones — things no other state has done and in spite of being disparaged for having so many regulations. Other states can learn from what California has done and what it is trying to do.

Ms. Grinsell then discussed utilities. Everyone read the articles about utilities and the part they played in the wildfires. Power lines running through highly flammable vegetation in environments prone to high winds is fundamentally a problem. At the same time, we want and need power. Some solutions are: Upgrading to coated conductor for power lines and moving power lines underground can reduce the risk of power lines sparking a fire; and Moving to smaller, localized grids utilizing a much higher percentage of wind and solar energy. Those investments can be expensive and disruptive. That doesn’t mean they aren’t good investments, but there needs to be a lot of communication with the public about the pros and cons. And other options need to be considered. This takes innovative thinking. Also, solutions need to be tailored to local needs and conditions. With regard to resiliency measures, shifting the mindset from response after a fire to resilience measures before can save money in the long run. Research indicates that $1 invested in wildland-urban interface fire hazard mitigation measures can save from $3 to $4 in future costs. That is huge. Resiliency is the key.

Ms. Grinsell stated that responses should not be limited to specific communities as these types of risks are interconnected. For example, in terms of a business, climate related climate-related changes can cause a cascade of business interruption risks. If I'm a restaurant owner or CEO of a restaurant chain, my supply chain can be affected, causing delays, shortages, price hikes and more. Those are just some of the interconnected nodes to climate-related changes. Having said that, more work needs to be done to help individuals and communities embrace their role in adapting to a new normal of hotter, drier, windier conditions that intensify wildfires. Ms. Grinsell noted that the report is available at www.zurichna.com/CalWildfires.

Gina Schwitzgebel Hardy, CEO/General Manager of the North Carolina Joint Underwriting Association (NCJUA) and North Carolina Insurance Underwriting Association (NCIUA), stated that the NCJUA and NCIUA are two associations that were created by the NC General Assembly but they do not operate as part of the state government, rather, they operate as independent insurance companies serving around 400,000 customers in the state and writing about $95 billion worth of property in the state. Ms. Hardy stated that she will be discussing today the work that NCJUA and NCIUA are doing in NC to create more resilient communities, in addition to the work that other organizations are doing across the country to make the work that the Insurance Institute for Business & Home Safety (IBHS) is doing prevalent in more communities.

For Hurricane Florence, the winds pounded NC for four days. Ms. Hardy stated that for someone who writes the majority of the exposure in the Outer Banks, the Barrier Islands, and a significant majority in the coastal areas of the state, you can imagine the concern she had. Another Hurricane happened a few years earlier: Hurricane Arthur, a CAT 2 Hurricane in July 2014. Even though NCJUA/NCIUA writes seven out of every ten homes in the Outer Banks and Barrier Islands, it only cost $10 million worth of damage. Hurricane Florence was very different – NCJUA/NCIUA paid out 100,000 claims and losses exceeded $1.7 billion. There were very positive results and a lot of credit goes to the partnership both with the General Assembly and the Insurance Commissioner. The Insurance Commissioner spoke to Ms. Hardy's staff who had to work very long hours about how they were first responders and what they could do to serve the citizens of NC. They even came up with a phrase "It's a mission not a position." 90% of claims were settled within 60 days. After that 60 days, NCJUA/NCIUA even assisted the California FAIR plan with some of the fire losses that were in California because the partnership among all the residual markets across the country is important. Ms. Hardy stated that she is proud to report that they (NC) only have five litigated claims within 100,000 claims filed in the state. That says a lot about the legal and regulatory environment that the General Assembly has put forth in NC.

Ms. Hardy stated that the experience NC had with hurricanes is not unique. If you look at the top ten hurricanes that have occurred, a lot of them have occurred since 2000 with large loss numbers. And it is not just hurricanes but also floods, wildfires, earthquakes, tornadoes, ice/snow, and hail. The IBHS has done a lot of tremendous research and work with these issues. NAMIC conducted a study that said for those that have the best building codes, for every dollar spent in pre-disaster, it actually saves $11. When talking about the impact of resilient construction, there are many benefits such as: less community damage; reduced costs of emergency management and disaster recovery resources (for everyone in the country, not just those in high risk areas); maintain tourism and tax base; lower insurance losses; increased availability of insurance; increased affordability of insurance; and stable insurance companies. Perhaps more important than that is the minimization of disruption to the homeowner's lives. There are some things which dollars can't replace.

Ms. Hardy stated that NCIUA looked internally in 2016 and looked at the incredible research that IBHS was doing. NCIUA looked at how many of its 400,000 policyholders had actually taken up getting a fortified roof or fortified their home in some way. Essentially, none did. In December of 2016, there were four that had a fortified roof. So, doing mitigation credits, which typically is how insurance companies go about incentivizing people, was not working. At that point, thought had to be put into how to incentivize consumers. Consumers want granite countertops but yet why were they not wanting a fortified roof that could keep their family safe? A change in approach was needed. The first thing done was building infrastructure because when talking to the building and roofing community, they were unfamiliar with a fortified roof and what it took to get one. When starting in 2016, there was one inspector in the state that could actually inspect to certify that someone had a fortified roof. Now, there are over 300 inspectors in the state and there had been a lot of training conducted for inspectors and contractors. There has been an incredible response from the local and national homebuilder's associations because it gives the builders something else to sell. If you think about a car, they don't' just sell low-end cars; they sell luxury cars as well. Roofers should be able to sell a normal roof and a fortified roof but the roofing community needs to be explained what that means.

Ms. Hardy stated that NCIUA then looked at what it could do as an insurance company. NCIUA can't use all of the benefits to cost-justify for itself because it is not a state agency so they looked at how they justify it from the standpoint of "why could our company invest money?" The two ways they looked at it was "what was our loss savings over a 10 or 20 year period" which is the period over which a new roof would last; and "what would be our reinsurance cost savings?" It was discovered that in the most exposed areas, the Barrier Islands and Outer Banks, the cost savings per house per roof was about $6,000 over that period of time. First, there was an enhancement endorsement created which said to the policyholder that if they had a loss and the roof needed to be replaced, the insurer will upgrade the roof to a fortified roof at the insurer's expense. That was about a $3,200 enhancement endorsement that was offered that was put on every single policy free of charge. Ms. Hardy stated that in order to build a fortified roof, you take the existing roof down, seal the roof deck between it so there is not water intrusion, use proper nail spacing, use ring shank nails, and use roof mounted vents. It is also important to make sure there is not an overhang that can easily be taken away because if the roof comes off, the house essentially becomes a bucket. Ms. Hardy stated that the first pilot program IBHS customer was very excited because the insurance company was paying for his roof, settling his claim quickly, paying for an upgraded roof, and giving him a 7% discount on his insurance going forward.

With regard to the results of the pilot program, which was done in the Outer Banks and Barrier Islands, Ms. Hardy stated that after having about 100,000 losses, a lot of which were roof losses, there was some disappointment that only 274 customers that had roof losses took the offer for an upgraded roof. It was found that roofers were coming in from all over the country and most of them had not gone through the training to know what a fortified roof was, so they were telling the consumer that if they needed a new roof, a regular roof could be put on quickly but a fortified roof would take very long. Accordingly, a lot of people didn't take the offer of the free endorsement. That led to further thinking as to how to innovate to help customers utilize fortified structures. The next thing done was a "strengthen your roof" grant program. There was skepticism at first because it was sent out to 20,000 policyholders and the message was that the board of directors is willing to give $10 million out to the first people that apply and they can get a grant of $6,000 – they did not have to have an insurance loss; the grant would be given to replace the roof with a fortified roof. A lot of people thought they were being scammed, but a significant number of people took the offer and there was a lot of positive feedback and peace of mind on behalf of those people. From 2016 to now, there has been a snowball effect with both the endorsement and grant programs.

Ms. Hardy stated that two studies were conducted by NCIUA, one after Hurricane Florence to compare the losses of fortified roofs with those with regular roofs within a mile radius. The results were staggering in how well the fortified roofs held up compared to regular roofs. Further, of all NCIUA properties (400+) with fortified roofs in place when Hurricane Dorian struck North Carolina, only 7 losses reported roof damage. Of those, 3 reported minor interior water damage and only 1 suffered significant water intrusion, and that 1 was due to the roof being put on the day before and it did not have time to cure and seal before the Hurricane hit. Comments received from those policyholders were very positive and they urged another pilot program to be started.

Ms. Hardy then discussed other mitigation programs across the country. The California Earthquake Authority (CEA) is a non-profit residential earthquake insurer. After the Northridge earthquake struck in 1994 and caused $20 billion in residential damage and left 22,000 people homeless, the CEA formed. North California is home to two-thirds of the nation's earthquake risk. CEA started doing something beneath the homes which is called the brace and bolt program. They give away grants of $3,000. California's residual market, the CEA (which is quasi-governmental), is getting a lot of federal grants along with some state grants. They are also seeing a snowball effect as they started in 2014 with just 9 homes. In 2019, they were able to get FEMA grants consisting of $23 million. They are scheduled this year to apply for five other grants and they anticipate retrofitting over 10,000 homes.

Ms. Hardy noted that the Strengthen Alabama Homes program, run through the Alabama Insurance Department, gives grants of up to $10,000. This year, the Alabama legislature has allocated $10 million for the program to do grants. Alabama actually has the largest number of IBHS fortified roofs in the country. The South Carolina Safe Home Program is run by the South Carolina Insurance Department. The South Carolina General Assembly gives grants of up to $5,000 for fortified roofing. It is indicated that this year there will be $2.2 million of funding.

Ms. Hardy stated that the NCIUA board of directors has approved $10 million of its own money to do another grant program. NCIUA has not sought, federal, state, local or private funding. Accordingly, the board stated that it would put up another $10 million for matching funds if it can get such funds from other Federal, State, Local or Private Sources. The brace and Bolt program is expected to complete about 2,600 homes and has applied for four FEMA grants. They are extremely fortunate in that they hired someone from a government agency that wrote grants. NCIUA is still trying to figure out the federal grant program and policies. It is very complicated and the regulations are vey thick. Strengthen Alabama Homes' funding comes from the state legislature and current amount of funding available for 2020 is $10,000,000. The South Carolina program will have $2.2 million of funding from the General Assembly of South Carolina.

Ms. Hardy stated that everyone is working together because believe it or not, if the federal government gives grants, those grants are not subject to federal taxation. However, the grants that the state organizations give are subject to federal taxation. Accordingly, Congressman Mike Thompson of California has introduced federal legislation – H.R. 5494, The Catastrophe Loss Mitigation and Tax Parity Act - which establishes tax exempt status for state-funded residential mitigation programs for earthquake, windstorm and wildfire. There are several co-sponsors and the National Association of Insurance Commissioners (NAIC) has endorsed it, along with the Chamber of Commerce, and other organizations. Ms. Hardy stated that having NCOIL joint as a supporter would be tremendous.

Ms. Hardy then offered the following advice for anyone looking to help NCIUA in its journey: Assist with Securing State and Federal Funding; Encourage more legislators to co-sponsor federal legislation H.R. 5494 exempting grants from Federal Taxation; Encourage other residual plans and private market insurers to educate policyholders and provide enhancement coverage; and Engage with the Building Community. Ms. Hardy stated that together we can build resilient communities and thanked the Committee for the opportunity to present.

ADJOURNMENT

There being no further business, the Committee adjourned at 3:30 p.m.