2017 Summer National Meeting

Property and Casualty Insurance (C) Committee

August 8, 2017
Philadelphia, Pennsylvania
AGENDA

1. Consider Adoption of its Interim Minutes—Commissioner John D. Doak (OK) Attachment One

2. Consider Adoption of its Task Force and Working Group Reports Attachment Two
   — Commissioner John D. Doak (OK)
   - Casualty Actuarial and Statistical (C) Task Force—Michael McKenney (PA)
   - Surplus Lines (C) Task Force—Commissioner James J. Donelon (LA)
   - Title Insurance (C) Task Force—Director Larry Deiter (SD)
   - Workers’ Compensation (C) Task Force—Director Lori K. Wing-Heier (AK)
   - Advisory Organization Examination Oversight (C) Working Group—Timothy Schott (ME)
   - Auto Insurance (C/D) Working Group—Commissioner Allen W. Kerr (AR)
   - Catastrophe Insurance (C) Working Group—Commissioner David Altmaier (FL)
   - Catastrophe Response (C) Working Group—Paula Pallozzi (RI)
   - Climate Change and Global Warming (C) Working Group—Commissioner Mike Kreidler (WA)
   - Creditor-Placed Insurance Model Act Review (C) Working Group—Commissioner David Altmaier (FL)
   - Crop Insurance (C) Working Group—Director Larry Deiter (SD)
   - Earthquake (C) Study Group—Ron Dahlquist (CA)
   - Medical Professional Liability (C) Working Group—Superintendent John G. Franchini (NM)
   - Public Adjustor (C/D) Working Group—Commissioner John D. Doak (OK)
   - Risk Retention (C) Working Group—David Provost (VT)
   - Sharing Economy (C) Working Group—Commissioner Dave Jones (CA)
   - Terrorism Insurance Implementation (C) Working Group—Martha Lees (NY)
   - Transparency and Readability of Consumer Information (C) Working Group—Angela Nelson (MO)
   - Travel Insurance (C) Working Group—Commissioner Al Redmer Jr. (MD)

3. Consider Adoption of the Catastrophic Event/Emergency Measures Regulatory Guidelines Attachment Three
   — Paula Pallozzi (RI)

4. Consider Adoption of a New Charge for the Casualty Actuarial and Statistical (C) Task Force Attachment Four
   — Commissioner John D. Doak (OK)
5. Consider Adoption of an Extension for Revisions to the *Creditor-Placed Insurance Model Act* (#375) — Commissioner David Altmaier (FL)

6. Hear a Federal Update—Brooke Stringer (NAIC)

7. Hear from States Regarding Legislation or Other Activities Related to the Private Flood Insurance Market—Commissioner John D. Doak (OK)

8. Hear Presentations Related to Private Flood Insurance
   — Steve Clarke (ISO)
   — Joe Gunset and Sabrina Miesowitz (Lloyd’s)
   — John Dickson (NFS Edge Insurance Agency)

9. Hear a Presentation on Consumer Tools—Warren Byrd (LA), Brenda J. Cude (University of Georgia) and Birny Birnbaum (Center for Economic Justice—CEJ)

10. Hear a Presentation on Mitigation Discounts—Charles Angell (AL), Amy Bach (United Policyholders) and Kendall Buchanan (SC)

11. Discuss Modernization of Commercial Lines Regulation—Commissioner John D. Doak (OK)

12. Discuss Any Other Matters Brought Before the Committee—Commissioner John D. Doak (OK)

13. Adjournment
Attachment One
Consider Adoption Interim Minutes
pending
Attachment Two
Consider Adoption of its Task Force and Working Group Reports
Casualty Actuarial and Statistical (C) Task Force
pending
pending
Title Insurance (C) Task Force
pending
Workers’ Compensation (C) Task Force
pending
Advisory Organization Examination Oversight (C) Working Group
pending
Auto Insurance (C/D) Working Group
pending
Catastrophe Insurance (C) Working Group
pending
Catastrophe Response (C) Working Group
pending
Climate Change and Global Warming (C) Working Group
pending
Creditor-Placed Insurance Model Act Review (C) Working Group
The Creditor-Placed Insurance Model Act Review (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call July 6, 2017. The following Working Group members participated: David Altmaier, Chair (FL); Alex Romero (AK); Kurt Swan (CT); Ron Henderson (LA); Mike Chaney and Mark Haire (MS); Buddy Combs (OK); Elizabeth Kelleher Dwyer (RI); J’ne Byckovski (TX); and Rebecca Nichols (VA).

1. **Adopted a Request for NAIC Model Law Development Related to Real Property**

Commissioner Altmaier noted that before the Working Group can proceed, it needs to reach a consensus on the critical threshold question of whether to amend the existing Creditor-Placed Insurance Model Act (#375) or develop a new model law applicable only to real property. Commissioner Altmaier said on June 16 the Working Group met via conference call in regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities or individuals, including, but not limited to, collaborative financial and market conduct examinations and analysis) of the NAIC Policy Statement on Open Meetings.

Commissioner Altmaier reminded the Working Group that this project originated in 2012 when the Property and Casualty Insurance (C) Committee conducted hearings under Commissioner Chaney’s leadership to look into issues regarding lender-placed insurance (LPI) in the real property market. He said the bulk of the work that has been done since has focused primarily on LPI with respect to real property. As a consequence, most of the revisions to Model #375 were driven by the data points accumulated through the 2012 hearings and subsequent market conduct exams and other regulatory settlements. He there seems to be a consensus that it would be easier and more seamless to first pursue a stand-alone lender-placed real property insurance model law and then consider any potential changes to Model #375 as it relates to auto insurance.

Commissioner Chaney expressed support for first proceeding with the development of a separate model law for real property and separately revising the existing Model #375 to address auto insurance issues.

Chrys Lemon (McIntyre & Lemon), representing the American Bankers Insurance Association (ABIA), noted that the industry’s position is that auto loans and mortgage loans are different in many important ways. Mr. Lemon said the ABIA has urged the Working Group to consider bifurcating the two different types of products, noting that it would support the concept explained by Commissioner Chaney. With respect to blanket insurance, Mr. Lemon said the ABIA believes it should be excluded as a completely different type of product. Tom Keepers (Consumer Credit Industry Association—CCIA) agreed with Mr. Lemon’s comments. Lisa Brown (American Insurance Association—AIA) also voiced support for Mr. Lemon’s comments, and she noted the importance of maintaining the current blanket exemption.

Birny Birnbaum (Center for Economic Justice—CEJ) said—with the exception of California, Florida, Minnesota and New York—state insurance regulators have failed consumers in this area. He said it has been 21 years since the adoption of Model #375 that actually endorses the kickbacks prohibited by the multistate settlement and by federal agencies. He noted it has been about 10 years since the housing crisis that led to a tripling of LPI home premium. He said Assurant alone had $12.5 billion in net premiums with a loss ratio in the mid-20s from 2009 to 2014. He asserted that billions went to loan servicers as kickbacks. He said the most recent five years have seen LPI home loss ratio average 30% compared to homeowners insurance, which averaged 51.5%. The lowest LPI home ratios came despite the fact LPI is a group policy with lower expenses than regular homeowners policies. Mr. Birnbaum continued by saying it is even worse for LPI auto, where the loss ratio for the past five years was only 36.4% compared to auto physical damage, which averaged 65% over the same period. The low loss ratios indicate a problem, Mr. Birnbaum said, adding that leaving the current Model #375 unchanged in regard to auto insurance would be unconscionable. He said it is possible to develop two models, but this approach is illogical, as the vast majority of the new model would be identical to Model #375, while the differences would be minor.

Commissioner Chaney responded to Mr. Birnbaum’s comments by saying that the current Model #375 works without complaints. Mr. Birnbaum said the loss ratio comes from NAIC statutory annual financial statements, adding that one of the reasons in addressing Model #375 in the first place was the fact that only a few states have enacted it. Commissioner Chaney said that while he is in agreement the existing Model #375 may need to be addressed, it is better if this issue is addressed in two separate model laws. Mr. Birnbaum said the Working Group’s existing charge gives the Working Group the authority to proceed with a single or dual track, adding that auto LPI should not be left alone. Commissioner Altmaier reiterated that
should the Working Group decide to pursue the approach of a separate model law for real property, it does not preclude the group from addressing auto in the existing Model #375.

Superintendent Dwyer requested that the Working Group ask for guidance from the Property and Casualty Insurance (C) Committee on whether to continue work on the existing Model #375 as it relates to auto insurance.

Commissioner Chaney made a motion, seconded by Mr. Combs, to seek permission through a Request for NAIC Model Law Development to draft a new model law related to lender-placed real property and seek guidance from the Property and Casualty Insurance (C) Committee on whether to continue work on the existing Model #375 as it relates to auto insurance. The motion was unanimously adopted.

Having no further business, the Creditor-Placed Insurance Model Act Review (C) Working Group adjourned.
The Creditor-Placed Insurance Model Act Review (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call June 6, 2017. The following Working Group members participated: David Altmaier, Chair (FL); Joel Laucher (CA); Kurt Swan (CT); Sharon Shipp (DC); Mike Chaney and David Browning (MS); Carrie Couch (MO); Robert Doucette (NM); James Mills (OK); Elizabeth Kelleher Dwyer (RI); Mark Worman (TX); Rebecca Nichols (VA); and J.P. Wieske and Roger Frings (WI).

1. Discussed Revisions to Model #375

Commissioner Altmaier reminded the Working Group that the group’s work stream is divided into two phases: 1) to discuss each section of the Creditor-Placed Insurance Model Act (#375); and 2) to receive feedback and make suggested edits to the existing Model #375. He said a first draft of the model was distributed for this call, noting that there are likely going to be additional drafts based on the feedback received. He pointed out that some commenters would like to draft an entirely new model. He said several comment letters were received on the latest draft.

Mr. Laucher said some of his comments are editorial in nature, noting that the comments received on tracking would be covered when reviewing the Center for Economic Justice (CEJ) comments. Commissioner Chaney said, in 2012, a public hearing was held regarding lender-placed insurance. He said the focus of this public hearing revolved around issues related to insurance coverage on property serving as collateral for the loan. After numerous meetings and discussions, the NAIC commenced a data call in 2014 to gather data from certain insurers that wrote lender-placed property insurance. Commissioner Chaney said, in early 2015, several states, through the Market Actions (D) Working Group, commenced a multistate targeted market conduct examination of lender-placed insurers, with the scope revolving around lender-placed insurance coverage on real property. Commissioner Chaney said this Working Group was appointed in 2015, with an initial charge to review information from the public hearing on lender-placed insurance and determine if changes to the current version of Model #375 are warranted. He said his concern is that the initial purpose of this Working Group was to look at issues as they relate to real property and not personal property. He said the model should either be separated into two sections or two separate models should be drafted. He said he has spoken with Superintendent John G. Franchini (NM), who agrees with this approach.

Ms. Nichols said there are questions about the definition of “blanket insurance.” Mr. Wieske said there are a couple instances where blanket insurance is mentioned in Model #375, warranting a definition. Mr. Laucher said the CEJ believes there does not need to be a definition for “blanket insurance.” He said the term was eliminated in Section 2B of Model #375, but a definition might still be relevant depending on subsequent amendments. Mr. Wieske said the term “blanket” may need to be added in places within the model to differentiate from other lines.

Birny Birnbaum (CEJ) said Model #375 currently covers any sort of lender-placed insurance for which there is a separate charge imposed on the borrower. He said blanket insurance is usually issued without any tracking, and the charge to borrowers is not based on the particular coverage. If there is blanket coverage with no separate charge, this is not covered by Model #375 and, and such, there is no need for a definition of “blanket coverage.” Mr. Birnbaum said there are issues of opinion such as whether there should be two separate models, but he said there are also issues of fact such as the proposed model will not raise mortgage costs for borrowers and will not force servicers to perform insurance tracking themselves. He said servicers are paid for insurance tracking by investors, and servicers are required to perform insurance tracking for a variety of reasons. He said the industry proposals favor a separate model for lender-placed insurance and a desire to strip out provisions for kickbacks, particularly for tracking. He said there are few differences between real property and personal property, noting that any differences could be explained in subsections within the model. He said one reason for revising the model is only a few states have adopted it. In terms of kickback provisions, Mr. Birnbaum said the industry wants to disregard prior abuses. He said recommended changes for every section are included within the CEJ comment letter.

Commissioner Chaney asked whether the CEJ proposal is consistent with the multistate agreement. Mr. Birnbaum said it is consistent, except the agreement has a carve-out for insurance tracking. Commissioner Chaney asked if Mr. Birnbaum is against separating real property from personal property. Mr. Birnbaum said the similarities in the products far outweigh the differences. He said both products require the borrower to maintain insurance and both operate in reverse-competition
markets and require similar disclosures. He said the differences in defining the nature of coverage can be handled by separate sections or separate references.

Commissioner Chaney said auto loans and mortgage loans are very different. He said one model could not cover both products unless they are separated out. Mr. Birnbaum said those differences can be identified and distinguished, but the decision on a separate model can wait until the end of the process. He said leaving the current model alone is not a reasonable option, as only a few states have enacted it. Commissioner Chaney said Mississippi has enacted the personal property provisions of Model #375 and has not seen any issues. Mr. Henderson asked if there is a problem with separating the two issues into two different sections of the same model. Mr. Birnbaum said if it turns out there is a need for a particular provision, then that can be done. He said the Working Group should not predetermine the issue of whether a separate model is needed. He added that people said there were no issues with lender-placed homeowners insurance seven years ago before kickbacks were recognized.

Mr. Wieske said a couple of provisions in Model #375 probably do not apply if blanket insurance is included, such as evidence of coverage that goes out to consumers and some of the consumer notices. He said if personal and real property are separate inside the same model, then each provision needs to be looked at individually, as well as blanket coverage. Mr. Birnbaum said it is not that complicated, because if it is vendor single-interest then the borrower is not an additional insured. He said the model is limited to those lender-placed insurance products where there is a separate charge to the borrower, so single-interest should be prohibited. Mr. Wieske asked, where the lending institution has an upfront charge that reflects blanket insurance but pushes some fees to consumers, if that would be treated as blanket and, therefore, exempted from the model. Mr. Birnbaum said if there is a separate charge to the borrower to reimburse the insurer, then it would not be exempt. He said the model only applies to insurance where there is a separate charge to the borrower. The blanket coverage charges a fee to all borrowers, but the borrowers are still being charged for insurance. In this case, he said this should be dual-interest coverage and Model #375 should apply. Mr. Wieske said companies would either increase other fees to hide costs or end the practice of issuing on a blanket basis. Mr. Birnbaum said when borrowers are charged an interest rate, various costs that are incurred to issue and service the loan are included. He said if there is a vendor single-interest, where the borrower is not an additional insured, then that is a cost of lending and this should not result in a separate charge to the borrower.

Ms. Nichols said the challenge with blanket insurance is it means different things to different people. She said there is no absolute meaning, and this creates ambiguity within the model because there is no definition. Commissioner Chaney said there is a lot of repetitiveness within the model. He said some of the concepts in the current model do not apply to real property. He said this is why a separate model is needed. Commissioner Chaney said he does not want a revised model to result in backdoor regulation on banks. Mr. Mills inquired as to how to take a revised model to state legislatures and get it enacted. Mr. Birnbaum said the current model puts requirements on insurance companies, as well as creditors. He said lender-placed insurance is at the intersection of insurance and credit, noting that any model has to go beyond oversight of insurance licensees. He said the New York regulation addresses servicers, creditors and lender-placed insurers.

Mr. Laucher asked when the Working Group would review the individual CEJ edits in detail. Commissioner Altmaier said the Working Group would review all of the comments in more detail on subsequent calls.

Rob Harrington (Assurant) said it would be unwieldy to combine personal and real property into one model. He said there are many differences such as credit agreements as opposed to mortgage loans; different secondary market requirements; and backdating provisions that would not work with real property. He said Assurant revised the model to take out those provisions not having to do with personal property and those not consistent with the multistate agreement. He said the agreement could serve as a guide for the lender-placed model.

Chrys Lemon (McIntyre & Lemon), representing the Property Casualty Insurers Association of America (PCI), the American Insurance Association (AIA), the Consumer Credit Industry Association (CCIA) and The Council of Insurance Agents & Brokers (CIAB) said there is a question of whether products such as auto versus home and creditor-placed insurance versus lender-placed insurance should be bifurcated. A decision needs to be made quickly, rather than wait as Mr. Birnbaum has suggested for later on in the process. Mr. Lemon said it would be simpler to carve out lender-placed insurance as used with respect to real property, leaving the existing model to apply only to personal property and auto. An industry concern is that the initial model did not seem to reflect comments made by the industry. He said this discussion has been useful to allay those concerns regarding the final model.
Bob Woody (PCI) said not much progress has been made toward arriving at a consensus. He said the industry is concerned that it would be hard to get through to the different states and the NAIC regarding the drafting of the model. He agreed with Commissioner Chaney that the most useful next steps would be to recognize that the existing Model #375 is dedicated only to auto and personal property and another new model should be drafted for residential mortgages.

Tom Keepers (CCIA) agreed with starting afresh with work for residential, because integrating real estate into a model fit for auto has significant and complex implications. He said substantial changes would need to be made to just adapt the definitions for real estate and could have unintended consequences for the model as a whole. He said there is an opportunity to clarify what a blanket product is. He also said just because there is a nominal charge to consumers, the purpose is not to put a product into a model designed for individual placement and charge for coverage. A definition is needed to help ensure that a product like blanket or vendor single-interest that has no individual placement and no underwriting, as well as no cancellation or refunds, is not inadvertently hooked into such a model.

Commissioner Altmaier noted that next steps would be to make revisions to the draft and circulate for comment before another conference call. Despite some differences in opinion, he said an appropriate compromise that works could be reached.

Commissioner Chaney noted that the Working Group should be working on two separate models for personal and real property. Commissioner Altmaier said Working Group members will have a conversation to determine where each regulator stands on the issue.

Having no further business, the Creditor-Placed Insurance Model Act Review (C) Working Group adjourned.
Crop Insurance (C) Working Group

No materials
Earthquake (C) Study Group
pending
Medical Professional Liability (C) Working Group
Medical Professional Liability (C) Working Group  
E-Vote  
July 30, 2017

The Medical Professional Liability (C) Working Group conducted an e-vote that concluded July 24, 2017. The following Working Group members participated: Superintendent John G. Franchini (NM); Tom Donovan (ID);

1. **Adopted the April 9 Meeting Minutes**

   The Working Group conducted an e-vote to consider adoption of the July 17, 2017 conference call minutes. A majority of the members voted in favor of adopting the minutes (Attachment XX). The motion passed.

   Having no further business, the Medical Professional Liability (C) Working Group adjourned.
The Medical Professional Liability (C) Working Group conducted an e-vote that concluded July 24, 2017. The following Working Group members participated: Superintendent John G. Franchini (NM); Tom Donovan (ID); Heather Droge (KS); James Mills (OK) and Eric Slavich (WA).

1. **Adopted the April 9 Meeting Minutes**

The Working Group conducted an e-vote to consider adoption of the April 9, 2017 Spring National Meeting minutes. A majority of the members voted in favor of adopting the minutes (Attachment XX). The motion passed.

Having no further business, the Medical Professional Liability (C) Working Group adjourned.
The Medical Professional Liability (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call July 17, 2017. The following Working Group members participated: John G. Franchini, Chair (NM); Marcia Kramer (KS); and Eric Slavich (WA). Also participating were: Brent Kabler and Molly White (MO).

1. **Discussed its Spring National Meeting Minutes**

Given a quorum was not present on the call, the Working Group decided to conduct an e-vote to consider adoption of its April 9 minutes (Attachment ____).

2. **Discussed its Next Steps**

Superintendent Franchini asked the regulators on the call what the Working Group should be working on at this time. Ms. White said she is interested to hear how the discussion about medical malpractice insurance and the federal Affordable Care Act (ACA) intertwine. She said she understood why the Working Group would have gotten away from the ACA impact, but because Missouri actively collects data in this area, she tries to keep staff informed regarding the activities of this Working Group. She said the issues are familiar ones, including not having the most robust and complete data set and not being able to release data to the public. Superintendent Franchini said claims data collection is important and mentioned that only two states have enacted the *Medical Professional Liability Closed Claim Reporting Model Law* (#77). Mr. Kabler said there are a number of states that collect data in this area, even if they have not enacted Model #77.

3. **Heard a Presentation from the PIAA**

Superintendent Franchini asked Simit Pandya (Physician Insurers Association of America—PIAA) to present a letter the PIAA submitted to the Working Group. Mr. Pandya said the objective of the letter is to provide feedback on how the Working Group should proceed with its charge. He said the PIAA shares an interest in studying this issue and recognizes the need to collect and analyze appropriate data to achieve this overarching goal. He said, based on what the PIAA has seen, efforts by the states to collect data are not clear in regard to how they are doing it, what data they are collecting and how they are utilizing that data. He said the PIAA highly recommends the Working Group focus its efforts on analyzing the varying state reporting requirements and how they are utilizing the data. He suggested surveying the states to find out what data is being collected, how it is being analyzed and with whom it is being shared. He said some states are sharing the information with state legislators, but it is unclear what the state legislators are doing with it, if anything at all. He said this process would shed light on what is truly relevant to regulators and help to identify what data is available and what gaps exist. He said the industry is willing to guide the Working Group with regard to data collection and data-sharing efforts.

Superintendent Franchini asked Mr. Pandya if the PIAA has consistent results when asking for data from states. Mr. Pandya said the PIAA has a data-sharing project for more than 30 years, where data is collected from its member companies. He said the data is organized and made available to its membership to help with studies, noting that the PIAA does its own analysis for risk-management purposes and to help educate members. Superintendent Franchini asked if companies tend to provide information in a manner that is more advantageous for them, as opposed to how the public needs the information. Mr. Pandya said things such as the corporate shield issue are more of a hospital concern, noting that the PIAA’s membership is predominantly mutual insurance companies. He said the data the PIAA collects is utilized to promote patient safety and for risk-management efforts, as the goal is to figure out how to keep premiums low and learn from adverse actions in the past. Superintendent Franchini asked how the public is made aware of doctors that may be being protected by the corporate shield. Mr. Pandya said that is primarily a National Practitioner Data Bank (NPDB) issue in terms of the data it collects. He said it is his understanding that peer review laws in the states aid in those data collection and analysis efforts.

Mr. Kabler said, in Missouri’s data collection efforts, there are some instances where corporate shield is being used to keep doctors’ names out of the data; however, that only really impacts the payment side. He said if an individual names a doctor in a lawsuit or medical malpractice case, that has to be reported to the state, so there would still be a record of the claim against the doctor, but the payout would be assigned to the corporation.
3. **Discussed Approach to Identify and Inventory Available and Relevant Medical Professional Liability Data and Resources**

Superintendent Franchini asked if it would be helpful to document how Washington, Missouri and the PIAA collect their data, in order to get a picture of how the Working Group might go forward. He said this could inform the Working Group in terms of getting to a uniform system of collecting this type of data across the country. Mr. Kabler said that made sense to him. He said the reason Missouri did not enact Model #77 is because it had been collecting data already for decades. He said Missouri’s data is similar to what is in Model #77, but includes additional information.

Denise Matthews (NAIC) asked if the PIAA has information on what the states are currently collecting. Mr. Pandya said what the PIAA has was derived from an earlier NAIC study. However, he said the data elements being collected were not a part of that study, so no comparison of data elements being collected has been done, nor how the data is being utilized. Ms. Matthews asked if the suggestion was to do a survey to determine what data elements the states are collecting. Mr. Pandya said he would agree with that and suggested the survey should also ask what the state is doing with the data. Ms. Matthews said the questions in the PIAA letter seem relevant.

Superintendent Franchini agreed that getting to a uniform reporting data collection mechanism is important for it to be simplified. He suggested the survey be distributed and the Working Group should have a meeting once the results have been aggregated.

Mr. Kabler said the survey should consider a few things beyond just the data elements being collected, including asking what the scope of the data call is. He said during the development of Model #77, collecting data from self-insured entities was a contentious issue, as it is a large part of the market in many states. He said the states may not have any authority over self-insured entities. He said some of these entities in Missouri claim to be exempt under federal law, noting that it would also be important to address the confidentiality issue. He said the data is extremely sensitive and, in Missouri, the law is rather nebulous regarding what information can be released. He said Missouri’s legal staff has decided the department can only release data in aggregate.

Mr. Pandya said nonadmitted carriers, surplus lines writers and risk retention groups are also an issue and should be added as a question to the survey. He suggested also asking the context for which the data is being collected and for what purpose; e.g., general health issues, to identify areas of increased risk management and patient safety, or to identify doctors being masked by the corporate shield.

Mr. Kabler said the survey might include a question about which state agencies have access to the data. He said, in Missouri, the data comes into the state insurance department to use for statistical purposes, but the department is obligated to forward the data to the appropriate medical licensing boards, which then investigate each of those claims.

Ms. Matthews said she would create a draft survey and determine who the right person is in the state to respond to it. She said it might be helpful to include a “catch all” type question that asks the states if there is any other relevant information they would want to contribute that would be useful to the Working Group, such as whether they are considering an upgrade to their system or planning to make any type of changes. Superintendent Franchini agreed and said it would be helpful to ask a question regarding how long the state has been using the current system and if it is planning to modernize it.

Having no further business, the Medical Professional Liability (C) Working Group adjourned.
Public Adjustor (C/D) Working Group
pending
Risk Retention (C) Working Group

No materials
Sharing Economy (C) Working Group

No materials
Terrorism Insurance Implementation
(C) Working Group
pending
Transparency and Readability of Consumer Information (C) Working Group
The Transparency and Readability of Consumer Information (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call July 12, 2017. The following Working Group members participated: Angela Nelson, Chair, and Jeana Thomas (MO); Ken Allen (CA); Bobbie Baca (CO); Joy Hatchette (MD); Kathy Shortt (NC); Cuc Nguyen (OK); and Jana Jarrett (OH). Also participating were: Kate Kixmiller (IN); Katie Johnson (VA); and Donna Stewart (WY).

1. Discussed the Flood Insurance Tools

Ms. Nelson said one of the Working Group’s key objectives is to focus on helping consumers understand the need to purchase flood insurance. The Working Group is going to focus on designing a standardized website for state insurance departments to utilize. The website will focus on educating consumers regarding their flood risk, as well as helping them to navigate their way through the National Flood Insurance Program (NFIP).

The Working Group will also produce a best practices document regarding outreach activities and how to engage other communities—such as realtors, financial planners, etc.—to provide consumer education regarding flood insurance. This document will be made available to the state insurance departments.

NAIC staff gathered some baseline information regarding the information that is already available to consumers concerning flood insurance. Part of this information includes flood facts the Working Group can create for consumers in the form of an infographic. The first infographic the Working Group plans to design is an infographic that explains the reasons a consumer would want to purchase flood insurance.

The Working Group is also looking at the information compiled by the Pennsylvania Insurance Department regarding flood insurance. Pennsylvania has assembled several documents, including: a brochure regarding flood risk; explanations regarding why a homeowner should consider flood insurance; and information regarding the NFIP. NAIC staff also provided several infographic examples to the Working Group regarding examples of what a good infographic looks like.

Amy Bach (United Policyholders—UP) discussed the differences between a flood insurance policy and a homeowners insurance policy and how this could be shared in a visual way, such as an infographic. She said these ideas encompass the types of coverages that lie outside of a homeowners policy. Ms. Bach said there is also an expression used by the NFIP, “chocolate shake, not chocolate cake,” that explains mudflow covered by an NFIP policy. Currently, the NFIP flood policy excludes earth movement, meaning it will cover mudflow that is like a chocolate shake (i.e., smooth and creamy), but it will not cover chocolate cake, meaning that if there is a lot of debris, such as tree trunks and rocks, the flood policy will not cover the mudflow.

Ms. Bach said UP has developed a two-sided card that looks like a piece of notebook paper titled, “Hey Look Long Islanders, Are You Protected from Another Sandy?” She said the goal is to grab the attention of homeowners and property owners regarding whether they would be covered if a similar event were to occur. The information card contains a quiz for consumers to take. Ms. Bach will send this information to NAIC staff for the Working Group to review.

Ms. Bach said disaster victims make good spokespeople because they will communicate the fact, “I wish I knew then what I know now regarding flood insurance.” Having flood insurance is not perfect, but it is better than not having any coverage at all. Ms. Bach said the private flood market appears to be developing fairly quickly.

Sonja Larkin-Thorne (Consumer Advocate) said there are three periods of a flood on which the Working Group needs to focus: 1) pre-flood; 2) during a flood; and 3) post-flood. She said there was an interesting article in the real estate section of her local newspaper titled, “Flood Insurance Myths that Don’t Hold Water.” She said it is a one-page article regarding what flood insurance is and what it is not. In particular, the article highlights that: a homeowners policy does not cover flood; there is a the difference between wind-driven rain and a flood; and flood insurance is not just for high-risk areas. Ms. Larkin-Thorne will send this article to NAIC staff to distribute to the Working Group.
Mr. Allen said there was a good presentation at the Center for Insurance Policy Research (CIPR) event at the Spring National Meeting regarding the future of flood insurance. He suggested the Working Group might want to review some of the information presented. Ms. Bach said there was someone from the private flood insurance market on the panel, as well as Robert Gordon (Property Casualty Insurers Association of America—PCI) and Roy Wright (Federal Emergency Management Agency—FEMA). NAIC staff will obtain these slides for the Working Group to review.

Ms. Bach said she is working with an elected official in a county in California that is not a participating flood community. She said the Working Group should communicate that not residing in a participating flood community means a homeowner will not receive NFIP preferred rates. Ms. Larkin-Thorne said both the NFIP and the private market entrants rate their policies based on whether a community is a participating flood community. She said there is no building allowed in a flood zone and no use of fill to raise a dwelling above a flood zone line, in addition to other rules and technicalities. This is not a costly expense, because most towns have engineering departments that approve building plans, in addition to adopting and enforcing all the necessary codes.

Ms. Nelson said Missouri has many rural communities, some of which are not incorporated and do not have rules or engineering departments that approve building plans. She said many of Missouri’s communities do not participate in the NFIP because of some of these issues, as they are worried about the impact to their property and the associated cost of becoming a participating community. Ms. Hatchette said each state has someone participating in its department of environment that deals with each of the communities to determine their eligibility to participate in the flood program. This person deals with each specific community.

Ms. Bach suggested using a question-and-answer format. She said if the question was asked, “What if my town is not a participating flood community, does that mean I can’t get flood insurance?” The answer would be, “It doesn’t mean you can’t get flood insurance, it just means it will be more expensive.” Ms. Nelson said a consumer-facing document should propose a solution for consumers who do not purchase flood insurance. The Working Group needs to decide whether to tell consumers they will pay a higher rate, refer them to an agent, refer them to the state insurance department or suggest they try to obtain flood insurance through a surplus lines broker. It is important to discuss what the best avenue is for consumers to follow.

Lisa Brown (American Insurance Association—AIA) said she would provide the Working Group with information regarding the number of insurers that provide a notice regarding flood insurance at renewal.

Ms. Bach said the key message to convey to consumers is, even if their mortgage lender does not require flood insurance, it does not mean they do not need to purchase it. She suggested looking at www.FloodSmart.gov to see if there are testimonials regarding the need for flood insurance. NAIC staff will check to see if these exist. Brenda Cude (University of Georgia) said she had a student do research on testimonials. The most effective way to communicate with consumers is in a one- or two-minute video where consumers find someone with whom they can identify; i.e., the video should not necessarily aim to just educate the consumer. Ms. Cude said it is important for consumers to see the people giving the testimonials before they click on the video. Ms. Nelson asked NAIC staff to check with the Communications Division to see if it would be feasible to record two or three short testimonials regarding the value of flood insurance.

Ms. Nelson said the fact that floods are the No. 1 disaster in the U.S. is an attention-getter. The question that might be asked in an infographic is, “Floods are the No. 1 disaster in the U.S. Are you insured?” The list should also include the following: floods and flash floods happen in all 50 states; in a high-risk area, there is a 26% chance of being flooded during a 30-year mortgage; and in a moderate to low-risk area eligible for the preferred risk policy, flood insurance premiums may be as low as $119 a year, including coverage for the property’s contents.

Ms. Bach said, according to the NFIP, the average premium for flood insurance is $300. She believes $119 might be a little low. Ms. Cude said the item could be reworded to say the flood insurance premium could be lower than the homeowners insurance premium. Ms. Nelson suggested reflecting the premium on a monthly, rather than annualized, basis because monthly costs appear more affordable. Ms. Shortt said a significant number of people affected by the most recent floods in North Carolina are farmers in rural areas who do not have a lot of money. She suggested relating the cost of flood insurance to the cost of replacing a house. Ms. Cude said her concern regarding relating the cost of flood insurance to the cost of replacing a house is that many people would just say they could not replace their home. She said cost-versus-value comparisons help consumers understand this type of thing. Ms. Nelson said giving a cost on average to repair a home following a flood event might be a way for consumers to understand the cost-versus-value issue. Ms. Larkin-Thorne said each state could plug in its average claim amount. Ms. Cude said the Working Group might consider multiple messages for multiple audiences.
Ms. Hatchette said she would also like to see something aimed at small businesses, because many small businesses do not have flood insurance. Ms. Nelson said the Working Group might consider creating infographics for both audiences. Ms. Cude suggested one for agricultural areas, as well. Ms. Brown suggested avoiding the flood fact—i.e., people outside of mapped high-risk flood areas receive one-third of federal disaster assistance for flooding—because property owners should not be led to believe disaster assistance replaces the need for a flood insurance policy.

The Working Group plans to meet via conference call the second or third week in August. Ms. Nelson asked Working Group members to review the information in the handouts today to discuss on the next conference call. She also asked Working Group members to share any information they might run across regarding this topic so they can be added to the list.

Having no further business, the Transparency and Readability of Consumer Information (C) Working Group adjourned.
The Transparency and Readability of Consumer Information (C) Working Group met via conference call June 22, 2017. The following Working Group members participated: Angela Nelson, Chair, and Jeana Thomas (MO); Michael Conway (CO); and Jana Jarrett (OH). Also participating were: Kate Kixmiller (IN); Katie Johnson (VA); and Donna Stewart (WY).

1. **Discussed its New 2017 Charge**

Ms. Nelson said the Working Group’s last endeavor was to reopen the automobile and homeowners shopping tools and consumer guides, at the request of the Sharing Economy (C) Working Group, to add ride-sharing and home-sharing to these tools and guides. These changes have all been adopted.

Ms. Nelson said the Working Group’s new charge is to develop a shopping tool for flood insurance to aid homeowners, renters and business owners. The charge also includes creating a standardized website for state insurance regulators regarding flood insurance. This website would be a consumer-facing website that regulators potentially could adopt and place on their insurance department’s website. Ms. Nelson said the charge also refers to a flood bulletin to assist consumers who might have questions regarding flood insurance. She said bulletins most often provide industry regulatory guidance; she said this piece of the charge might be better served as a consumer alert or educational resources.

Birny Birnbaum (Center for Economic Justice—CEJ) said asking at what point in time consumers would be looking for information regarding flood insurance would aid the Working Group in delivering a product, as well as the format best for its delivery. He said informing consumers of flood insurance when they are purchasing a home and shopping for a mortgage would be an appropriate delivery point. Oftentimes, consumers need more information regarding whom to contact regarding claims issues following a flood loss and may require help from the National Flood Insurance Program (NFIP). Mr. Birnbaum said the Working Group might want to consider the different types of information a consumer needs at different points in time and consider delivery methods that are conducive to the consumer needs. He said this information should be delivered electronically.

Ms. Nelson said it would be ideal to distribute information to consumers at the time they are shopping for a mortgage and hopes the Working Group can collaborate with other parties in order to provide information at this time.

Ms. Nelson said Missouri begins messaging consumers regarding flood in February, prior to possible spring flooding. The timing would obviously be different depending on the state and its storm season. Mr. Birnbaum suggested including an alert regarding flood insurance with a homeowners policy renewal. Sonja Larkin-Thorne (Consumer Advocate) said it takes 30 days for a flood policy to go into effect, noting that most companies will not write flood insurance during a catastrophic event or pending catastrophic event. Ms. Larkin-Thorne said consumers need to understand that purchasing flood insurance makes sense regardless of whether they live in a flood zone. She said consumers need to understand what CoreLogic reports are and how the information can be appealed, if necessary. Consumers also need to understand what a letter of map amendment (LOMA) entails, as well as what getting a survey entails. Whether a consumer is appealing a flood map, or shopping for a flood insurance policy, the same steps need to be followed. Ms. Larkin-Thorne suggested putting this information on state insurance department website would be optimal. Ms. Nelson said the NAIC is focusing some of its messaging around life events; the Working Group can develop information for the NAIC to provide regarding flood insurance information with the home ownership information during the months consumers are buying the most new homes.

Ms. Nelson said Missouri uses a number of social media outlets to reach consumers. She said that in the spring there are many television commercials regarding NFIP insurance. Consumers are still oftentimes unaware their homeowners policy will not cover flood damage. Ms. Larkin-Thorne said agents in Connecticut have told her one of the most effective increases in their flood insurance policy take-up rates was when the governor delivered public service announcements regarding the need for consumers to purchase a flood insurance policy.

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Lisa Brown (American Insurance Association—AIA) suggested a visual product, such as the use of infographics, would be helpful to consumers. Ms. Nelson said most people think catastrophic events will not happen to them, which is one battle to
Having no further business, the Transparency and Readability of Consumer Information (C) Working Group adjourned.
Travel Insurance (C) Working Group
pending
Attachment Three
Adopt the Catastrophic Event/Emergency Measures Regulatory Guidelines
Catastrophic Event/Emergency Measures Regulatory Guidelines

Section A. Emergency Powers during a Catastrophic Event/State of Emergency; effect upon insurance policies; rules.

(1). The ________(insert: Insurance Commissioner/Director/Superintendent or Department/Division of Insurance) may issue rules or promulgate regulations to take effect upon the declaration of a state of emergency, as declared by the President or Governor, that address any of the following or other matters related to the catastrophe/disaster or emergency¹ for insurance policies issued in this state:

(a) Reporting requirements for claims related to the emergency including the effective date such reporting and emergency measures take effect, geographic location(s) impacted, and the specific date/time when the emergency measures expires (unless re-issued);

(b) Grace periods for payment of insurance premiums and performance of other duties by policyholders (other than the duty to mitigate); and/or

(c) Temporary postponement of cancellations and nonrenewals of insurance policies (unless requested by policyholders).

(2). Subdivisions 1(a), (b) and (c) above apply to all insurance policies, regardless of the line of insurance, issued by insurers licensed in this state, and if the state deems necessary, non-admitted surplus lines insurers, to all policyholders displaced or inaccessible as a result of the catastrophe or state of emergency. The emergency rules or regulations may require the insurer to make reasonable efforts to contact the policyholder, through methods not limited to traditional contact by telephone and including public outreach through social media and traditional media, and provide the accommodations requested by the policyholder, within the limits of accommodations detailed in the rules or regulation, upon confirmation that the policyholder has been displaced or inaccessible by the catastrophe or state of emergency.

Drafting note: States may wish to consider an alternative trigger for declaration of catastrophe as deemed appropriate, such as commissioner discretion if claims exceed a certain trigger, i.e., 500 claims. RI’s statutory trigger is “a nationally recognized catastrophe loss index provider”.

Section B. Emergency Measures

(1). The __________(insert: Insurance Commissioner/Director/Superintendent)) may utilize the declaration of a state of emergency by the President or Governor for purposes of the declaration of emergency measures pursuant to __________(insert Statutory reference granting DOI emergency powers)

(2). When a state of emergency is declared, the (insert: Insurance Commissioner/Director/Superintendent) may require an insurer licensed in this state and, if the state deems necessary, non-admitted surplus lines insurers to take any of the following actions:

(a) Allow grace periods for the payment of insurance premiums for policyholders displaced by the state of emergency for a time period established by the Department. For purposes of this section, displaced includes circumstances where a policyholder may be inaccessible as a result of the catastrophe or emergency;

(i) The Department may establish the time period indicated above by considering the severity of the emergency and the number and severity of claims.

¹ Your governor may already have broad statutory authority as part of his/her emergency powers. For consistency purposes, you may want to review your existing statutes to make use of the definitions already included in your statutes.
(ii) The Department may order a maximum grace period of 90 days by bulletin or emergency rule. This requirement does not prevent the Department from amending this regulation during the grace period to establish a longer grace period.

(iii) At the end of the grace period insurers may bill policyholders for the premium accumulated during the grace period as long as the insurer has notified the policyholder that premium will accumulate during the grace period. Insurers may not impose additional interest, penalty or other charges during the grace period.

(iv) Insurers may treat nonpayment of accumulated premium in the same manner as nonpayment of premium under the policy as long as the insurer has notified the policyholder that the premium will be due upon expiration of the grace period or at whatever longer interval is established by the insurer.

(b) Suspend performance of other duties under the policy for policyholders displaced or inaccessible by the catastrophic event or emergency.

(i) The policyholders’ duty under the policy to mitigate damages may not be excused. Policyholders may be afforded sufficient time to effectuate the repairs or reconstruction to the dwelling or property and to recognize any extraordinary circumstances that may exist such as engaging a contractor or construction workers, obtaining materials, and otherwise undertake to accomplish the necessary repairs or reconstruction.

(ii) The policyholders’ duty to provide information and cooperate with the insurers’ investigation of the claim may not be excused.

(iii) The Department may determine what duties will be suspended by consideration of the severity of the emergency and the number and severity of claims in (state name).

(iv) The Department may notify insurers of the exact duties for a specific emergency by issuance of a bulletin or industry alert. (Sample alert or bulletin attached)

(c) Suspend cancellations and non-renewals of insurance policies for policyholders displaced or inaccessible by the emergency for a time period established by the Department

(i) The Department may establish the time period by taking into consideration the severity of the emergency and the number and severity of claims.

(ii) The Department may order a maximum period of 90 days by bulletin.

(iii) This requirement does not prevent the Department from moving to amend this regulation to establish a longer grace period.

(iv) This provision will apply to non-renewals or cancellations that were sent out prior to the state of emergency, but which have not yet become effective on the date of the emergency.”

(d) Waive any time restrictions on prescription medication refills and authorize payment to pharmacies for a 30-day supply, unless limited by a physician or statute, of any prescription medication, regardless of the date upon which the prescription medication had most recently been filled by a pharmacist; and waive any restrictions on the time frame for the replacement of durable medical equipment or supplies, eyeglasses, and dentures.

(e) The (insert: Insurance Commissioner/Director/Superintendent) may exempt an insurer from compliance with this provision upon the written request of the insurer if the (insert: Insurance Commissioner/Director/Superintendent) determines that compliance with this provision may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency

(f) The Department may establish additional emergency measures depending upon the circumstances of the event.
Attachment Four
Consider a New Charge for the Casualty Actuarial and Statistical (C) Task Force
pending
Attachment Five
Hear Presentations Related to Private Flood Insurance
pending
Attachment Six
Hear a Presentation on Consumer Tools
pending
Attachment Seven
Hear a Presentation on Mitigation Discounts
pending