

2006 Proposed Charges

PROPERTY AND CASUALTY INSURANCE (C) COMMITTEE

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

1. Discuss issues arising and make recommendations with respect to advisory organization and insurer filings for personal and commercial lines, as needed. Report the results of this ongoing charge on a quarterly basis; *Essential*
2. Appoint a Market Conditions Working Group, if necessary, to monitor the availability and affordability, including all potential causes related thereto, of property and casualty insurance products and, for the most distressed lines of business, provide reports that contain market-monitoring information. Formulate solutions and propose regulatory responses for the most distressed lines of business; *Important*
3. Appoint a Catastrophe Insurance Working Group to report progress on the following catastrophe insurance issues on a quarterly basis:
 - a. monitor and recommend measures to improve the availability and cost of insurance and reinsurance related to catastrophe perils for personal and commercial lines;
 - b. evaluate potential state, regional and national programs to increase capacity for insurance and reinsurance related to catastrophe perils;
 - c. monitor and assess proposals that address disaster insurance issues, both at the federal and state levels; assess concentration of risk issues and whether a regulatory solution is needed;
 - d. provide a forum for discussing various issues related to catastrophe modeling and monitor issues that will result in changes to the *Catastrophe Computer Simulation Modeling Handbook*; and
 - e. provide a forum for discussing issues and recommending solutions related to insuring for catastrophic risk, including terrorism, war, and natural disasters. *Essential*
4. Review developments in case law and rehabilitation proceedings and the findings contained in the Government Accountability Agency's report on risk retention groups, if warranted, make appropriate changes to the *Risk Retention and Purchasing Group Handbook*. Report the results of this ongoing charge on a quarterly basis. *Essential*
5. Appoint a Crop Insurance Working Group to monitor the activities of the Federal Crop Insurance Corporation that affect state insurance regulators. Serve as a forum for discussing issues related to the interaction of federal crop insurance programs with state regulation. Review law changes and court decisions and, if warranted, make appropriate changes to the *Crop Insurance Handbook: A Guide for Insurance Regulators*. Report the results of this ongoing charge on a quarterly basis. *Important*
6. Coordinate with the Federal Insurance Administrator on the regulation of flood insurance. Continue developing a handbook or white paper to assist state insurance regulators in understanding the federal flood insurance program and how it interacts with state insurance regulation. Complete work on the handbook or white paper by the 2006 Winter National Meeting. Report progress on the handbook or white paper, and other activities, on a quarterly basis. *Important*
7. Monitor the activities of the Workers' Compensation Task Force. *Essential*
8. Monitor the activities of the Statistical Information Task Force. *Essential*
9. Monitor the activities of the Surplus Lines Task Force. *Essential*
10. Monitor the activities of the Casualty Actuarial Task Force. *Essential*

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11. Appoint an Advisory Organizations Examination Protocol Working Group and ask that it

(a) Develop protocol for examination of national or multi-state rating organizations to be more comprehensive, efficient, and possibly less frequent than the current patchwork of single state exams. Solicit input and collaboration from other interested and affected task forces and committees. Among important issues to resolve are:

- Initiation of exam and participation by one or more interested states;
- Collaboration of participating states on the scope of exam;
- Maintaining confidentiality of exam information by states and contractors, if any;
- Access to data from, or relating to, non-participating states;
- Process for curtailing use of data for which access is denied or not readily available;
- Sharing sensitive state-specific information with non-participating states; and
- Allocation of examination costs.

(b) Monitor data reporting of rating or advisory organization data collection processes to determine if rating or advisory organizations implement appropriate measures to assure data quality. Report the results of this ongoing charge as needed. *Important and was Deferred Last Year*

12. Appoint a Class Action Insurance Litigation Working Group to determine the impact or potential impact on the authority of state insurance regulators of class action litigation (or, in some cases, individual litigation) against insurers in areas that are regulated by elected or appointed insurance commissioners. The working group should:

- a. Determine the scope and breadth of class action insurance litigation in terms of the lines of insurance impacted, the numbers and types of such suits, the companies that have been sued, the nature of the claims being made, the amount of recovery being sought, and the courts where such actions have been filed;
- b. Analyze the impact of such suits on the scope and reach of the McCarran-Ferguson Act and other federal statutes and court opinions defining the scope and limitations on state insurance regulation;
- c. Analyze the impact of such suits on the authority of state insurance regulators in areas of traditional activity, such as rate and form approval, solvency monitoring, consumer protection, and the maintenance of insurance markets that are able to provide a wide range of insurance products at reasonable prices;
- d. Study the relation between court rulings on insurance matters and such established principles of insurance law as the filed rate doctrine, deference to the expertise of insurance regulators, and exhaustion of administrative remedies;
- e. Develop a method for collecting data on lawsuits that impact on the authority of state insurance regulators and a method to make such information available to the NAIC members—including types and numbers of cases, measurable effect on the availability and affordability of insurance, benefits provided by these suits to putative class members, costs of these lawsuits to policyholders generally, costs to insurers of defending against such suits, and payments made to attorneys who bring such suits, both from settlements and judgments;
- f. Develop guidelines and principles for the NAIC to follow with regard to intervening or filing amicus briefs in pending litigation, and in seeking or supporting legislation at both the federal and state level to address these issues;
- g. Provide a report to the NAIC members detailing the findings of the working group by June 2006. Include an analysis of the cost of implementing and maintaining the database on lawsuits and the other recommendations that have a fiscal impact on the NAIC. *Essential*

13. Review model laws adopted from 1989 to 1994 that have not been revised since that time period. *Important*

14. Appoint a Title Insurance Issues Working Group to study issues related to title insurers and title insurance producers, including the impact of current real estate settlement practices on policyholders, recognizing that typically, settlement providers, not policyholders, are the title entity's customers. The working group should:

- a. Study whether the title insurance industry is undertaking additional financial risks at the request of institutional lenders and owners;
- b. Study the issuance of mortgage impairment products by non-title insurers to determine whether they should be classified as title insurance;

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- c. Monitor the developments of the U.S. Department of Housing and Urban Development (HUD) proposed changes to its Real Estate Settlement Procedures Act (RESPA) and provide comments to HUD or to the U.S. Congress if necessary;
- d. Review the Title Insurers Model Act, which was last adopted in 1995 and has not been revised since that time. Consider issues submitted by consumer representatives during the review, including: whether monoline laws and regulations needlessly diminish competition; whether greater price competition among tile insurers can be encouraged; whether prices should be reduced for refinances; whether fee padding and charging consumers fees for third party services that the title insurers are actually are getting free or at a much lower cost is detrimental to consumers; and whether the new trend of realtors including provisions in their contracts to sell requiring the buyer to utilize a particular title entity is appropriate;
- e. Study captive reinsurance arrangements that title insurers maintain and determine if they are legitimate reinsurance transactions or simply gimmicks to avoid the application of laws that would prohibit rebating, and, if necessary, make recommendations for needed reform;
- f. Study affiliated business arrangements (ownership arrangements between and among settlement providers and title entities) to determine what types of arrangements are legitimate and what types of arrangements are “shams”, i.e., those structured mainly to capture referral business and provide kickbacks to settlement providers, and that do not perform essential core title services;
- g. Study the appropriateness of title insurance rates in light of the current competitive environment, and in particular, determine what constitutes appropriate justification for rates, determine the affect affiliated business arrangements should have on rates, and determine the feasibility of interactive rate comparisons among title entities to enhance competition. *Essential*

Sponsors for 2006 Charges *(Except as noted, I support all charges)*

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