PROPERTY AND CASUALTY INSURANCE (C) COMMITTEE

Property and Casualty Insurance (C) Committee, Apr. 8, 2019, Meeting Minutes
Property and Casualty Insurance (C) Committee Mar. 28, 2019, Conference Call Minutes (Attachment One)
A Regulator’s Guide to Pet Insurance (Attachment One-A)
Catastrophe Insurance (C) Working Group, Apr. 6, 2019, Meeting Minutes (Attachment Two)
Terrorism Insurance Implementation (C) Working Group, Apr. 7, 2019, Meeting Minutes (Attachment Three)
Transparency and Readability of Consumer Information (C) Working Group Apr. 4, 2019, E-Vote Minutes (Attachment Four)
Transparency and Readability of Consumer Information (C) Working Group March 18, 2019, Conference Call Minutes (Attachment Four-A)
Transparency and Readability of Consumer Information (C) Working Group Feb. 25, 2019, Conference Call Minutes (Attachment Four-B)
Transparency and Readability of Consumer Information (C) Working Group Feb. 13, 2019, Conference Call Minutes (Attachment Four-C)
Revised 2019 Charges for Property and Casualty Insurance (C) Committee (Attachment Five)
Private Flood Memo (Attachment Six)
The Property and Casualty Insurance (C) Committee met in Orlando, FL, April 8, 2019. The following Committee members participated: Elizabeth Kelleher Dwyer, Chair, and Matt Gendron (RI); Scott A. White, Vice Chair, and Don Beatty (VA); Jim L. Ridling and Jerry Workman (AL); Ricardo Lara and Ken Allen (CA); Andrew N. Mais (CT); David Altmaier (FL); Robert H. Muriel and Patrick Hyde (IL); James J. Donelon represented by Warren Byrd, Rich Piazza and Tom Travis (LA); Al Redmer Jr. represented by Nour Benchaaboun (MD); Marlene Caride and Kristine Maurer (NJ); John G. Franchini (NM); Glen Mulready and Buddy Combs (OK); Larry Deiter (SD); James A. Dodrill (WV); and Mark Afable (WI). Also participating were: Phillip Vigliaturo (MN); Angela Nelson (MO); Stephen Doody (NY); and Doug Hartz (WA).

1. Adopted its March 28 Minutes

The Committee met March 28 and took the following action: 1) adopted its 2018 Fall National Meeting minutes; 2) adopted A Regulator’s Guide to Pet Insurance; 3) appointed the Pet Insurance (C) Working Group; and 4) heard an update on the private passenger auto report.

Commissioner Donelon made a motion, seconded by Commissioner Caride, to adopt the Committee’s March 28 minutes (Attachment One). The motion passed unanimously.

2. Adopted Reports from its Task Forces and Working Groups

a. Casualty Actuarial and Statistical (C) Task Force

Mr. Vigliaturo said the Casualty Actuarial and Statistical (C) Task Force met April 6. The Task Force is working on its charge proposing changes to the Product Filing Review Handbook to include best practices for review of predictive models and analytics filed by insurers to justify rates and proposing state guidance for rate filings that are based on complex predictive models. A first draft of the predictive modeling white paper was exposed and comments were received. The Task Force expects to respond to the comments and create a new draft after its May conference call. Mr. Vigliaturo said the Task Force hopes to finalize the white paper by the Fall National Meeting. He said Task Force is also working on a project regarding appointed actuaries and changes to the property/casualty (P/C) Statement of Actuarial Opinion instructions related to defining appointed actuaries.

b. Surplus Lines (C) Task Force

Mr. Travis said the Surplus Lines (C) Task Force met April 6. The Task Force has made a referral to the Producer Licensing (D) Task Force related to the State Licensing Handbook that addresses changes to the underlying licensure to accommodate the proposed Guideline on Nonadmitted Accident & Health Coverages. He said the Task Force has also been monitoring congressional reauthorization of the National Flood Insurance Program (NFIP).

c. Title Insurance (C) Task Force

Mr. Byrd said the Title Insurance (C) Task Force met April 7. The Task Force has been learning more about fraudulent events and has been researching fraud prevention methods. The Task Force also published the results of the Survey of State Insurance Laws Regarding Title Data and Title Matters, which is available on the Task Force’s web page.

d. Workers’ Compensation (C) Task Force

Superintendent Franchini said the Workers’ Compensation (C) Task Force met April 8 and heard a presentation from the National Council on Compensation Insurance (NCCI) regarding workers’ compensation rate decreases, of which the main drivers are decreased frequency and severity. The Task Force also heard a presentation regarding the use of legal analytics to predict claims outcomes.
Draft Pending Adoption

e. Cannabis Insurance (C) Working Group

Commissioner Lara said the Cannabis Insurance (C) Working Group continues to work on the drafting of its white paper via its informal drafting subgroup. The white paper explores regulatory issues related to insurance issues in the cannabis industry, including availability of coverage and insurance gaps; how insurance rates are set; legal and regulatory authority at the federal, state and local levels; cannabis operations; and best practices. He said the informal drafting group has met six times via conference call to discuss needed content revisions, and plans to meet April 15 via conference call to discuss the final revisions to the draft white paper.

Commissioner Lara said the Working Group plans to meet the first week of May to review the draft white paper and then consider exposing it for a 30-day public comment period. The Working Group hopes to have the white paper ready for submission to the Committee for approval at the Summer National Meeting, with adoption by the Executive (EX) Committee and Plenary during this calendar year.

f. Catastrophe Insurance (C) Working Group

Commissioner Altmaier said the Catastrophe Insurance (C) Working Group met April 6. The Working Group has formed a drafting group to create a white paper and recommendations regarding state regulatory best practices for private flood insurance. The purpose of this document is to provide state insurance regulators with regulatory best practices concerning the development of the expanding private insurance market for residential flood insurance. The drafting group will meet via conference call following this national meeting to discuss next steps. At the Spring National Meeting, the Working Group heard from industry members regarding steps the states might take to enhance private flood insurance.

Commissioner Altmaier said the Working Group has also formed a drafting group to update the NAIC State Disaster Response Plan. Superintendent Dwyer asked when updates to the State Disaster Response Plan would be complete. Sara Robben (NAIC) said the Working Group hopes to complete its work in 45 days and submit its proposed revisions to the Committee by the Summer National Meeting.

g. Lender-Placed Model Act (C) Working Group

Commissioner Altmaier said the Lender-Placed Insurance Model Act (C) Working Group is working on revisions to the proposed Real Property Lender-Placed Insurance Model Act. He said the Working Group has had conversations with the industry and consumer groups on controversial issues. He said the Working Group hopes to wrap up its work in the near future.

h. Terrorism Insurance Implementation (C) Working Group

Mr. Doody said the Terrorism Insurance Implementation (C) Working Group met April 7. The Working Group heard updates on congressional activity related to the federal Terrorism Risk Insurance Act (TRIA), which expires Dec. 31, 2020, including a report from the NAIC on its support of a long-term reauthorization of TRIA of seven to 10 years and reports from the industry on their support of a long-term reauthorization of TRIA and a desire to limit the changes made to deductibles, co-pays and triggers. The Working Group heard an overview of the workers’ compensation terrorism risk insurance market, including state-level data on average premiums from 2011 through 2016. Mr. Doody said an update was provided to the Working Group on the joint state insurance regulator/U.S. Department of the Treasury terrorism risk insurance data call, with data due to both entities by May 15. The Working Group also heard a report that decisions on the 2019 state supplement, which collects ZIP code-level data, will be made soon.

i. Transparency and Readability of Consumer Information (C) Working Group

Ms. Nelson said the Transparency and Readability of Consumer Information (C) Working Group is working to respond to a referral from the Catastrophe Insurance (C) Working Group to draft a document for consumers to use following a catastrophic event. This document will assist consumers with working through the claims process. The Working Group has shared this work with the NAIC Communications Division, as the NAIC is working on a campaign related to flood insurance. The Working Group has previously posted consumer infographics related to floods on its website.
Draft Pending Adoption

j. Climate Change and Global Warming (C) Working Group

Mr. Hartz said the Climate Change and Global Warming (C) Working Group will host a webinar April 12 to hear the results of the U.S. government’s Fourth National Climate Assessment (NCA). Gerald Geernaert (U.S. Department of Energy) will present the findings of the report. The report is congressionally mandated to be produced every four years to help inform response decisions.

Mr. Byrd made a motion, seconded by Commissioner Caride, to adopt the following task force and working group reports: Casualty Actuarial and Statistical (C) Task Force; Surplus Lines (C) Task Force; Title Insurance (C) Task Force; Workers’ Compensation (C) Task Force; Advisory Organization Examination Oversight (C) Working Group; Cannabis Insurance (C) Working Group; Catastrophe Insurance (C) Working Group (Attachment Two); Climate Change and Global Warming (C) Working Group; Lender-Placed Insurance Model Act (C) Working Group; Terrorism Insurance Implementation (C) Working Group (Attachment Three); and Transparency and Readability of Consumer Information (C) Working Group, including its April 4 minutes (Attachment Four). The motion passed unanimously.

3. Adopted Revised 2019 Charges

Superintendent Dwyer said the Executive (EX) Committee has recommended changing the name of the Climate Change and Global Warming (C) Working Group to the Climate Risk and Resilience (C) Working Group, with an added emphasis on general resilience issues. Commissioner Lara, as vice chair of the Working Group, noted that he supports the new charges, which read:

A. Engage with industry and stakeholders in the U.S. and abroad on climate-related risk and resiliency issues.
B. Investigate and recommend measures to reduce risks of climate change related to catastrophic events.
C. Identify insurance and other financial mechanisms to protect infrastructure and reduce exposure to the public.
D. Identify sustainability, resilience and mitigation issues and solutions related to the insurance industry.
E. Evaluate private-public partnerships to improve insurance market capacity related to catastrophe perils.
F. Investigate and receive information regarding the use of modeling by carriers and their reinsurers concerning climate risk.
G. Review the impact of climate change on insurers through presentations by interested parties.
H. Review innovative insurer solutions to climate risk, including new insurance products through presentations by interested parties.

Superintendent Dwyer said the Committee, on its March 28 conference call, adopted a pet insurance white paper and appointed the Pet Insurance (C) Working Group. She said Mr. Beatty has agreed to chair the Working Group and will seek a vice chair and members. The proposed charge for the Working Group reads:

A. Review A Regulator’s Guide to Pet Insurance and consider whether a model law or guideline is needed to establish appropriate regulatory standards for the pet insurance industry.

Superintendent Dwyer said she and Director Chlora Lindley-Myers (MO), chair of the Market Regulation and Consumer Affairs (D) Committee, have agreed to move the Advisory Organization Oversight Examination (C) Working Group and its charges to the Market Regulation and Consumer Affairs (D) Committee, as the Working Group’s primary responsibility is to oversee examination work.

Commissioner Caride made a motion, seconded by Commissioner Altmaier, to adopt the Committee’s revised 2019 charges, including new charges for the Climate Risk and Resilience (C) Working Group and the Pet Insurance (C) Working Group, and the move of the Advisory Organization Oversight Examination (C) Working Group and its charges to the Market Regulation and Consumer Affairs (D) Committee (Attachment Five).

4. Adopted an Extension for Revisions to the Proposed Real Property Lender-Placed Insurance Model Act

Commissioner Altmaier made a motion, seconded by Commissioner Caride, to adopt an extension to the Summer National Meeting for revisions to the proposed Real Property Lender-Placed Insurance Model Act.
Draft Pending Adoption

5. Heard a Presentation from FEMA Regarding the NFIP

David Maurstad (Federal Emergency Management Agency—FEMA) said the National Flood Insurance Program (NFIP) provides $1.3 trillion in flood insurance coverage and insures five million policyholders in 22,000 communities. He said, in 2018, NFIP paid 16,000 claims totaling $683 million for Hurricane Florence and nearly 5,000 claims for $210 million for Hurricane Michael. He said the NFIP has $17.7 billion in capacity to pay claims.

Mr. Maurstad said FEMA is building a culture of preparedness centered on achieving two “moonshot” goals set in 2017: 1) working to close the insurance gap by doubling insurance coverage; and 2) striving to move mitigation forward by quadrupling investment in mitigation by 2022. These are the first two objectives in FEMA’s strategic plan. The number of NFIP policies has increased from 4.9 million to 5.1 million since the fourth quarter of 2017.

Mr. Maurstad said the NFIP is transforming through the recent rollout of Risk Rating 2.0, a new rating system. He said some policyholders will pay more and some will pay less, but it is a necessary change to fulfill the U.S. Congress’ intent to provide fair and equitable treatment of policyholders and facilitate a clear understanding of individual flood risks. He said the new rates will be available April 1, 2020, and rates will be effective Oct. 1, 2020. He said the NFIP rating methodology has not fundamentally changed since the 1970s and, since then, technology has evolved and so has the understanding of flood risk. He said policyholders with lower value homes had been paying relatively more under the current rating system.

Mr. Maurstad said Risk Rating 2.0 will make rating more transparent, reflect more types of flood risks, and will streamline the underwriting and policy issuance process for agents and customers. He said Risk Rating 2.0 will reduce flood risks nationwide through increased insurance coverage and mitigation activity. He said additional mitigation credits will be incorporated to help incentivize risk reduction efforts. He stressed that Risk Rating 2.0 will require a concerted effort engaging all stakeholders through the national rollout. He said FEMA is working to transform the NFIP to a less complex customer experience in order to close the insurance gap and improve mitigation. Currently, only 30% of residences in high-risk areas, and only 4% of homes overall, have an NFIP policy. He said the risk of flooding exists in every state, noting that 98% of counties have experienced flooding.

Mr. Maurstad noted his hometown of Beatrice, NE, purchased flood-prone properties in the 1970s and moved public work projects to higher ground. Because of this, the town had no structures damaged by the severe flooding in 2015 and 2019. He noted that other communities have and can do this, as well. He said FEMA provided more than $900 million in pre- and post-disaster mitigation grants in 2018. He said a new grant program is being rolled out, funded by 6% set aside from disaster expenses.

Mr. Maurstad stressed state insurance regulators are critical partners in promoting the purchase of flood insurance in the private market and doubling insurance coverage by 2022. He encouraged state insurance commissioners to continue to inform consumers about the need for flood insurance. He said FEMA is working with Congress on a multiyear reauthorization of the NFIP. He reminded regulators that FEMA has drafted a Desk Reference Guide for State Insurance Commissioners.

Superintendent Dwyer asked how Risk Rating 2.0 works with grandfathering. Mr. Maurstad said FEMA is evaluating all issues, as Risk Rating 2.0 is a work in progress, noting that additional information will be shared later.

Commissioner Mais asked about recent legislation allowing FEMA to provide more funding to the states if they take mitigation steps. Mr. Maurstad said the grant program will allow for additional pre-disaster mitigation. He said the current program allows for $25 million to $250 million annually in funding, while the new program will result in an average of $600 million in funding.

Commissioner Mulready asked whether the goal of doubling insurance policies counts private flood insurance policies. Mr. Maurstad said FEMA wants the private market to grow, as well, and it is included in this goal.

Commissioner Lara asked about FEMA research into atmospheric rivers as record rainfall continues to cause flooding and mudslides. Mr. Maurstad said FEMA is working with federal agencies and the private sector to include that sort of flooding in the new rating structure.

Commissioner Lara asked how the funds for mitigation would be dispersed and prioritized. Mr. Maurstad said Congress has given the instruction that mitigation has to be risk-based and competitive, as well as reduce costs targeted at infrastructure.
Commissioner Ridling asked if there was a list of steps the states could take to increase uptake rates in private flood insurance. Commissioner Altmaier said this would be included in the work of the Catastrophe Insurance (C) Working Group in its best practices document. Mr. Maurstad said FEMA has also created a toolkit that can help state officials.

6. **Heard a Presentation from NAIC Communications Division**

Laura Kane (NAIC) said the NAIC’s Communication Division works with state public information officers (PIOs) in communicating national awareness days, consumer insights and alerts, social media programs, press releases and the word of the week. She said the NAIC sends out a PIO newsletter monthly. She said the NAIC also holds monthly PIO conference calls where experts are heard from, noting that FEMA would be participating on the April and May PIO calls.

Ms. Kane said she is working with PIOs from Florida, Hawaii and South Carolina in developing a multiyear flood insurance campaign. She said the campaign is modular and can be used by any state. The campaign includes facts and figures on the risks; misconceptions concerning risks and FEMA assistance; questions for agents; and information on preparedness and resiliency. She said the campaign uses infographics, story ideas, Twitter chats, videos, news releases and a quiz for consumers that asks what coverage is needed for an event. Ms. Kane described several story ideas such as preparing pets for floods, rolling out stories on anniversaries of large floods and stories on business owners. She said the NAIC web page on flood insurance has been updated with new information.

Superintendent Dwyer clarified that the campaign is still being developed and additional information will be rolled out. Commissioner Altmaier said the work will be useful, as consumers often do not understand that they are underinsured.

Birny Birnbaum (Center for Economic Justice—CEJ) said the consumer work is good, but asked whether tools or techniques will be used to measure consumer comprehension and effectiveness.

Ms. Kane said the website downloads will be tracked and the flood quiz will be scored, but it is difficult to measure consumer comprehension. She said the NAIC will work with FEMA in tracking flood insurance uptake and the CIPR may conduct research on what messages resonate best. Mr. Birnbaum said he has seen some tools that would help, including online pop-ups that ask for feedback on whether the information was helpful.

7. **Received a Written Report on 2018 Private Flood Insurance Data**

Superintendent Dwyer reported that a memorandum describing the private flood insurance data from the 2018 annual financial statement was included within the materials (Attachment Six). The memo notes that about 120 insurers wrote private flood insurance in 2018, compared to about 90 in 2017 and 50 in 2016. The total direct premium written in states and territories was approximately $644 million in 2018, compared to $589 million the prior year. Going back to 2016, the first reporting year, states saw a 71% growth in private flood insurance written premium from 2016 to 2018, with 15 states experiencing over 100% growth.

The memo also recommended that: alien surplus lines data be collected; a distinction be made between commercial and residential writings; and clarification be made so that data for premiums related to endorsements and first-dollar coverage are both collected.

Superintendent Dwyer said the Committee should hold a discussion about expanding the flood insurance data collected through the annual financial statement, including the suggestions made in the memorandum.

8. **Heard a Presentation from GAVDA**

Greg Scott (Global Alliance for Vehicle Data Access—GAVDA) said GAVDA is a coalition of stakeholders dedicated to the concept that vehicle owners should own the data being generated by their vehicle and should be able to give permission to third parties to access that data. He said GAVDA was started in 2017 in Europe and has expanded globally in 2019. He said the fundamental purpose of GAVDA is to not permit vehicle and equipment manufacturers to shut down access to data. He said privacy, competition, consumer protection and safety are priorities for GAVDA.

Mr. Scott said GAVDA and the P/C insurance industry are natural allies because vehicle data access is key to insurers for underwriting, investigating accidents and determining liability, and researching safety improvements. He said data access will be key in the future to insurers for connected and autonomous vehicle insurance and in order for insurance regulators to improve safety and protect consumers.
Mr. Scott said vehicle data access regulation poses no threat to state regulation of insurance and data access standards are sensible for the insurance industry. He said he hopes to have the NAIC’s support and possible membership in GAVDA.

9. **Heard an Update on Congressional Activities Related to Autonomous Vehicles**

Brooke Stringer (NAIC) said she recently attended a GAVDA congressional briefing on data access issues. She said despite a strong push from U.S. Senate proponents at the end of the previous Congress, comprehensive legislation to accelerate the introduction and testing of autonomous vehicles was not enacted. She said efforts stalled due to timing constraints at the end of the session and safety concerns from several Senate Democrats and consumer groups, as well as concerns from trial lawyers on liability provisions. She said another key area of debate is the division of regulatory responsibility among the states and the federal government.

Ms. Stringer said the NAIC preferred language in the Senate bill (the “AV START Act”) that did not reference insurance in the preemption section and expressed concerns with the bill passed in the U.S. House of Representatives (the “SELF DRIVE Act”) that would have allowed for preemption of state insurance laws or regulations if they unreasonably restrict autonomous vehicle design, construction or performance. She said the insurance industry supported language in the Senate bill that would have created an advisory committee to discuss and make recommendations to Congress regarding access to data generated by automated vehicles. The NAIC was supportive of these efforts.

Ms. Stringer said the NAIC opposed the provisions in the preemptive House bill last Congress and will continue to engage to ensure that federal legislation does not undermine state insurance regulators’ ability to protect insurance consumers or to ensure automobile insurer solvency as this emerging technology evolves.

Superintendent Dwyer asked why the NAIC opposed the House version of legislation. Ms. Stringer said the bill would have preempted state regulation if it was decided state laws were unreasonably restrictive to autonomous vehicle design and development.

10. **Discussed Additional Flood Insurance Work**

Mr. Birnbaum said he wrote a letter to the NAIC leadership in January noting that the federal banking regulator rule to promote private flood insurance has implications for consumer protection. He said the rule puts the onus on state insurance regulators to provide guidance to the bank regulators. He said the federal rule may assist with building the private flood insurance market, but consumers must be protected.

Superintendent Dwyer said these issues may be considered at the Catastrophe Insurance (C) Working Group, as that Working Group develops its best practices for facilitating the private flood insurance market.

Mr. Birnbaum asked if he could submit comments regarding the potential collection of additional flood insurance data. Superintendent asked for comments to be sent to the Committee within the next two weeks.

Having no further business, the Property and Casualty Insurance (C) Committee adjourned.
The Property and Casualty Insurance (C) Committee met via conference call March 28, 2019. The following Committee members participated: Elizabeth Kelleher Dwyer, Chair (RI); Scott A. White, Vice Chair (VA); Jim L. Ridling represented by Jerry Workman (AL); Ricardo Lara represented by Kendra Zoller (CA); Andrew N. Mais represented by George Bradner (CT); David Altmaier (FL); Robert H. Muriel represented by Judy Mottar (IL); James J. Donelon and Warren Byrd (LA); Al Redmer Jr. represented by Robert Baron (MD); Marlene Caride represented by Mark McGill and Carl Sornson (NJ); John G. Franchini represented by Anna Krylova (NM); Glen Mulready represented by Andy Schallhorn (OK); Larry Deiter represented by Dan Nelson (SD); and Mark Afable (WI).

1. **Adopted its 2018 Fall National Meeting Minutes**

   Commissioner Altmaier made a motion, seconded by Commissioner Donelon, to adopt the Committee’s Nov. 17, 2018, minutes (see NAIC Proceedings – Fall 2018, Property and Casualty Insurance (C) Committee). The motion passed.

2. **Adopted A Regulator’s Guide to Pet Insurance**

   Superintendent Dwyer said a drafting group began work on a pet insurance white paper after the 2018 Spring National Meeting. The group was tasked with providing an overview of the pet insurance market, industry trends, coverage options, the regulatory environment and regulatory concerns. The drafting group noted that some interested parties offered suggestions for the licensing of pet insurance producers. She said the drafted white paper does not include recommendations on licensing matters, but the background information within the white paper should help guide any conversations moving forward.

   Superintendent Dwyer noted that comments were received from: Independence American Insurance Company; Crum & Forster on behalf of U.S. Fire and North River; Nationwide; and Companion Protect. She said there is disagreement among commenters related to what sort of producer license should be required to sell pet insurance. She said state insurance regulators will likely take up those issues in the future, but they are not covered within the white paper.

   Superintendent Dwyer said there were comments suggesting that content from unverified sources be removed, so those references were removed in the version distributed March 26. She said deletions were also made to explanations of actuarial groups in Appendix 3, “Overview of Actuarial Science.”

   Aaron Brandenburg (NAIC) said the two sentences referencing the now-deleted sections should also be removed.

   Ms. Zoller noted California has pending legislation that would require disclosures related to pet insurance. She said it is not known whether this will become law until September or October. Commissioner Donelon asked whether this bill only focuses on pet insurance. Ms. Zoller said it does, noting that the bill mirrors other California law in terms of required disclosures.

   Mr. Bradner suggested a footnoted be added describing California’s pending legislation. Superintendent Dwyer agreed that a footnote should be added to the second paragraph of page 10 in the white paper describing California’s current law.

   Mr. Bradner made a motion, seconded by Commissioner White, to adopt *A Regulator’s Guide to Pet Insurance*, with the aforementioned deletions and the added footnote (Attachment One-A). The motion passed.

3. **Appointed the Pet Insurance (C) Working Group**

   Superintendent Dwyer noted the Committee has a charge to consider whether next steps are warranted related to pet insurance regulatory issues. She said a working group should review the white paper and consider drafting a model law in order to address regulatory issues before they turn into market conduct issues.

   Commissioner White agreed there may be issues similar to ones that occurred in the travel insurance market.
Mr. Bradner said the product can be complex and policies can be confusing, noting that regulators should work to clarify what is covered and what is not under pet insurance policies.

Commissioner White made a motion, seconded by Mr. Bradner, to appoint the Pet Insurance (C) Working Group to consider development of a model law. The motion passed.

Superintendent Dwyer said this new Working Group would need to have charges adopted by the Committee and could take up a Request for NAIC Model Law Development at a later date.

4. **Heard an Update on the Status of the Private Passenger Auto Report**

Superintendent Dwyer said the Auto Insurance (C/D) Working Group was disbanded during the 2018 Fall National Meeting, noting that the Property and Casualty Insurance (C) Committee and the Market Regulation and Consumer Affairs (D) Committee agreed to oversee the development of a study evaluating private passenger auto insurance data state insurance regulators have received from statistical agents.

Superintendent Dwyer said NAIC staff have created a report that includes numerous exhibits presenting each state’s data. That report will be distributed to state insurance regulators March 29 and will be released to all parties after regulator review. She said a webinar will be held April 11 for state insurance regulators to assist them with how the Tableau tool can be used to further analyze this data.

5. **Heard a Preview of the Spring National Meeting**

Superintendent Dwyer said, in addition to receiving updates from its working groups on the progress they are making and when they expect to complete work product, the Committee will have significant discussions on flood insurance at the Spring National Meeting. She said the Committee will hear from David Maurstad (Federal Emergency Management Agency—FEMA), who serves as the chief executive of the National Flood Insurance Program, and will hear an update on the media campaign related to flood insurance being conducted by the NAIC. In addition, a report on private flood insurance data will be provided. She said there will also be discussions regarding autonomous vehicles, including an update on congressional and other activities.

Having no further business, the Property and Casualty Insurance (C) Committee adjourned.
A REGULATOR’S GUIDE TO PET INSURANCE
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INTRODUCTION

In December 2016, an insurer in the pet health insurance (pet insurance) industry voiced concerns to the Producer Licensing (D) Task Force regarding the use of limited lines licensing for pet insurance. The insurer recommended that pet insurance be removed from the State Licensing Handbook Uniform Licensing Standard (ULS) #37 as a limited line. It was the insurer’s opinion that a full property/casualty (P/C) line should be required to sell, solicit or negotiate pet insurance. Reasons cited include: 1) tremendous growth in the pet insurance market; 2) policy premiums that far exceed the cost of the covered item (i.e. the pet); 3) complex policies with multiple coverage options and exclusions. Traditionally, limited lines products are designed to be incidental to the sale of another product which according to the insurer is not the case with pet insurance. The Task Force decided it needed to better understand the complexities of pet insurance before offering guidance regarding the type of producer license required to sell the product. As a result, the Task Force made a referral to the Property and Casualty Insurance (C) Committee to draft a comprehensive white paper providing information on coverage options, product approval, marketing, ratemaking, claims practices and regulatory concerns.

As discussed during the NAIC Property and Casualty Insurance (C) Committee’s meeting at the 2018 Spring National Meeting, the Committee formed a drafting group to develop a white paper to provide an overview of the pet insurance industry. This white paper represents the group’s findings. Please note that all websites and companies discussed in this paper are included for research only and are not endorsements by the NAIC.

Pet insurance provides accident and illness coverage for family-owned pets, primarily dogs and cats. Although pet insurance is classified and regulated as P/C insurance, it bears many similarities to human health insurance with annual coverage offered at an actuarially determined rate subject to various conditions and exclusions. This coverage was started in the U.S. in 1980 and has grown significantly since that time.

The North American Pet Health Insurance Association (NAPHIA) represents more than 99% of the U.S. and Canada pet health insurance industry as an advocacy group. As shown in Figure 1, the total premium volume for NAPHIA members in 2017 was approximately $1.03 billion in the U.S., representing 23.2% growth over the prior year. The growth of the P/C insurance industry as a whole was only 4.7% from 2016.
to 2017. The direct written premium in the U.S. (including the territories) was approximately $640 billion in 2017, so while the pet insurance market is growing faster than the total P/C market, pet insurance still represents a small percentage of the total.

FIGURE 1. PET INSURANCE PREMIUM VOLUME

According to a survey conducted by the American Pet Products Association (APPA),\(^1\) in 2017, approximately 68% of U.S. households, or 84.65 million families, owned at least one pet (dog, cat or other). Sixty million of these households owned at least one dog, and 47 million owned at least one cat. There are significant opportunities for growth in the pet insurance market, with approximately 90 million household dogs and 95 million household cats in the U.S. According to NAPHIA, as shown in Figure 2 below, approximately 1.5 million dogs and 300,000 cats were insured in 2017, meaning fewer than 2% of dogs and less than 0.5% of cats owned in the U.S. were insured in 2017. As shown in Figure 2, the number of insured dogs and cats increased 17.5% from 2016 to 2017.

FIGURE 2. TOTAL INSURED PETS

\(^1\) https://americanpetproducts.org/Uploads/MemServices/GPE2017_NPOS_Seminar.pdf
TOTAL INSURED PETS

USA

Note: Most companies have a “one pet per policy” system; a few have multiple pets per policy.

<table>
<thead>
<tr>
<th>Year</th>
<th>Dogs</th>
<th>Cats</th>
<th>Total Insured Pets</th>
</tr>
</thead>
<tbody>
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<td>2013</td>
<td>937,526</td>
<td>180,031</td>
<td>1,117,557</td>
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<td>1,177,008</td>
<td>222,297</td>
<td>1,399,305</td>
</tr>
<tr>
<td>2016</td>
<td>1,310,408</td>
<td>244,816</td>
<td>1,555,224</td>
</tr>
<tr>
<td>2017</td>
<td>1,537,573</td>
<td>290,553</td>
<td>1,828,126</td>
</tr>
</tbody>
</table>


HISTORY

The first “pet insurance” policy was issued in 1890 in Sweden and focused on horses and livestock. In 1924, the first policy covering a dog was issued in Sweden. In 1947, the first pet insurance policy was issued in the United Kingdom (UK). In Sweden and the UK, modern pet insurance policies are designed with the ability to cover pet medical costs and liability to third parties for the action of pets. Sweden has a requirement that dog owners maintain liability coverage and, as a result, 60% to 70% of pet owners retain pet insurance. In the UK, 25% to 30% of dog and/or cat owners maintain pet insurance.

The first pet policy in the U.S. was issued in 1982 by Veterinary Pet Insurance (VPI). VPI was founded by a veterinarian from Orange County, CA. For the majority of the 1980s and ’90s, VPI had a near monopoly over the U.S. market. In the early 2000s, additional companies joined the market. At the time, VPI had approximately 80% of the market. As shown in Figure 3 below, VPI, which was purchased by Nationwide and operating under that name, maintained more than 35% of the market for pet insurance in 2017. The market has grown significantly from the 1980s to today. Figure 1 above shows the remarkable growth over the prior five years alone.

FIGURE 3. TOP SELLERS

2 The use of the term “pet insurance” in this paper does not refer to insurance policies that cover horses and livestock, commonly referred to as “blood stock,” which provides indemnity for animal mortality. The term “pet insurance” in this paper refers to the products commonly covering dogs and cats and providing indemnity for the cost of dogs’ and cats’ medical treatment. All of the participants in the market cover cats and dogs. A few also cover horses and exotic animal(s) kept as pets.
<table>
<thead>
<tr>
<th>COMPANY/BRANDING ENTITY</th>
<th>USD (IN MILLIONS)*</th>
<th>MARKET SHARE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nationwide</td>
<td>$ 374.60</td>
<td>36.33%</td>
</tr>
<tr>
<td>Trupanion</td>
<td>$ 191.60</td>
<td>18.58%</td>
</tr>
<tr>
<td>Healthy Paws Pet Insurance and Foundation</td>
<td>$ 123.20</td>
<td>11.95%</td>
</tr>
<tr>
<td>Petplan Pet Insurance</td>
<td>$ 83.60</td>
<td>8.11%</td>
</tr>
<tr>
<td>Crum &amp; Forster Pet Insurance Group</td>
<td>$ 69.20</td>
<td>6.71%</td>
</tr>
<tr>
<td>Other</td>
<td>$ 188.80</td>
<td>18.32%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 1,031.00</strong></td>
<td><strong>100.00%</strong></td>
</tr>
</tbody>
</table>


Figure 3 shows the U.S. 2017 premiums written by the top five insurers and branding entities with their 2017 premiums written established for the sale of pet insurance. Branding entities are programs that can be underwritten and sold by multiple insurers and are subject to change. Additionally, insurers may underwrite a variety of pet insurance programs. Branding entities may have programs underwritten by multiple insurers, and insurers may underwrite for multiple brands. The use of brand names is common in the industry which, without proper disclosure can cause confusion for state insurance regulators and consumers to determine the entity with a duty to indemnify.

Although the U.S. market has been growing by 15% or 20% a year for the last five years, it still only covers approximately 1% of the estimated 1.1 million dogs and cats kept as pets in the U.S. As noted in Figure 4, pet insurance coverage is concentrated in larger urban areas, with California and New York being the largest markets. However, over the last two decades, product offerings have expanded as additional insurers have entered the market. Caution should be used when contemplating data contained in Figures 1 through 4. Data for these figures was provided by the industry association NAPHIA, not the states or the NAIC. Data contained in each of the Figures 1 through 4 include NAPHIA members only and therefore are not exhaustive of the entire market for pet insurance. As discussed later in the paper, premiums and losses for pet insurance policies are contained in the inland marine line of business on the NAIC annual financial statement and, therefore, data for pet insurance specifically is indeterminate at this time.
A few states have initiated data calls or market conduct examinations concerning pet insurance. Massachusetts’ data call was designed to identify pet insurance writers and their premium volume in the state. New Hampshire published a report of its data call, revealing that 20 companies filed forms in the System for Electronic Rate and Form Filing (SERFF) in 2017, but only nine reported premium from 2015 through 2017. The two largest companies accounted for 59% of the market in New Hampshire in 2017.
### FIGURE 4. POLICIES AND PREMIUMS BY STATE

<table>
<thead>
<tr>
<th>State</th>
<th>Number of Policies ($)</th>
<th>Number of Policies (%)</th>
<th>Gross Written Premium ($)</th>
<th>Gross Written Premium (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S.</td>
<td>1,834,111</td>
<td>100.0%</td>
<td>$ 1.03 B</td>
<td>100.0%</td>
</tr>
<tr>
<td>Alabama</td>
<td>7,254</td>
<td>0.4%</td>
<td>$ 3.79 M</td>
<td>0.4%</td>
</tr>
<tr>
<td>Alaska</td>
<td>5,720</td>
<td>0.3%</td>
<td>$ 2.62 M</td>
<td>0.3%</td>
</tr>
<tr>
<td>Arizona</td>
<td>34,485</td>
<td>1.9%</td>
<td>$19.21 M</td>
<td>1.9%</td>
</tr>
<tr>
<td>Arkansas</td>
<td>2,862</td>
<td>0.2%</td>
<td>$ 1.35 M</td>
<td>0.1%</td>
</tr>
<tr>
<td>California</td>
<td>362,727</td>
<td>19.8%</td>
<td>$219.54 M</td>
<td>21.4%</td>
</tr>
<tr>
<td>Colorado</td>
<td>53,986</td>
<td>2.9%</td>
<td>$30.81 M</td>
<td>3.0%</td>
</tr>
<tr>
<td>Connecticut</td>
<td>39,215</td>
<td>2.1%</td>
<td>$22.65 M</td>
<td>2.2%</td>
</tr>
<tr>
<td>Delaware</td>
<td>6,497</td>
<td>0.4%</td>
<td>$ 4.24 M</td>
<td>0.4%</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>8,444</td>
<td>0.5%</td>
<td>$ 3.87 M</td>
<td>0.4%</td>
</tr>
<tr>
<td>Florida</td>
<td>116,855</td>
<td>6.4%</td>
<td>$64.94 M</td>
<td>6.3%</td>
</tr>
<tr>
<td>Georgia</td>
<td>31,757</td>
<td>1.7%</td>
<td>$16.11 M</td>
<td>1.6%</td>
</tr>
<tr>
<td>Hawaii</td>
<td>9,073</td>
<td>0.5%</td>
<td>$ 5.19 M</td>
<td>0.5%</td>
</tr>
<tr>
<td>Idaho</td>
<td>5,003</td>
<td>0.3%</td>
<td>$ 2.51 M</td>
<td>0.2%</td>
</tr>
<tr>
<td>Illinois</td>
<td>62,149</td>
<td>3.4%</td>
<td>$34.53 M</td>
<td>3.4%</td>
</tr>
<tr>
<td>Indiana</td>
<td>15,336</td>
<td>0.8%</td>
<td>$ 7.40 M</td>
<td>0.7%</td>
</tr>
<tr>
<td>Iowa</td>
<td>6,522</td>
<td>0.4%</td>
<td>$ 3.01 M</td>
<td>0.3%</td>
</tr>
<tr>
<td>Kansas</td>
<td>6,981</td>
<td>0.4%</td>
<td>$ 3.28 M</td>
<td>0.3%</td>
</tr>
<tr>
<td>Kentucky</td>
<td>8,848</td>
<td>0.5%</td>
<td>$ 4.21 M</td>
<td>0.4%</td>
</tr>
<tr>
<td>Louisiana</td>
<td>9,724</td>
<td>0.5%</td>
<td>$ 4.76 M</td>
<td>0.5%</td>
</tr>
<tr>
<td>Maine</td>
<td>8,371</td>
<td>0.5%</td>
<td>$ 4.35 M</td>
<td>0.4%</td>
</tr>
<tr>
<td>Maryland</td>
<td>45,449</td>
<td>2.5%</td>
<td>$25.70 M</td>
<td>2.5%</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>86,703</td>
<td>4.7%</td>
<td>$48.83 M</td>
<td>4.8%</td>
</tr>
<tr>
<td>Michigan</td>
<td>27,642</td>
<td>1.5%</td>
<td>$14.10 M</td>
<td>1.4%</td>
</tr>
<tr>
<td>Minnesota</td>
<td>17,552</td>
<td>1.0%</td>
<td>$ 8.85 M</td>
<td>0.9%</td>
</tr>
<tr>
<td>Mississippi</td>
<td>2,815</td>
<td>0.2%</td>
<td>$ 1.35 M</td>
<td>0.1%</td>
</tr>
<tr>
<td>Missouri</td>
<td>13,363</td>
<td>0.7%</td>
<td>$ 6.38 M</td>
<td>0.6%</td>
</tr>
<tr>
<td>Montana</td>
<td>2,759</td>
<td>0.2%</td>
<td>$ 1.28 M</td>
<td>0.1%</td>
</tr>
<tr>
<td>Nebraska</td>
<td>3,961</td>
<td>0.2%</td>
<td>$ 1.96 M</td>
<td>0.2%</td>
</tr>
<tr>
<td>Nevada</td>
<td>26,574</td>
<td>1.4%</td>
<td>$14.67 M</td>
<td>1.4%</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>15,452</td>
<td>0.8%</td>
<td>$ 8.58 M</td>
<td>0.8%</td>
</tr>
<tr>
<td>New Jersey</td>
<td>104,884</td>
<td>5.7%</td>
<td>$61.96 M</td>
<td>6.0%</td>
</tr>
<tr>
<td>New Mexico</td>
<td>6,336</td>
<td>0.3%</td>
<td>$ 3.26 M</td>
<td>0.3%</td>
</tr>
<tr>
<td>New York</td>
<td>179,133</td>
<td>9.8%</td>
<td>$106.52 M</td>
<td>10.4%</td>
</tr>
<tr>
<td>North Carolina</td>
<td>40,557</td>
<td>2.2%</td>
<td>$21.51 M</td>
<td>2.1%</td>
</tr>
<tr>
<td>North Dakota</td>
<td>1,065</td>
<td>0.1%</td>
<td>$ 0.52 M</td>
<td>0.1%</td>
</tr>
<tr>
<td>Ohio</td>
<td>35,968</td>
<td>2.0%</td>
<td>$18.24 M</td>
<td>1.8%</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>4,829</td>
<td>0.3%</td>
<td>$ 2.31 M</td>
<td>0.2%</td>
</tr>
<tr>
<td>Oregon</td>
<td>27,086</td>
<td>1.5%</td>
<td>$15.15 M</td>
<td>1.5%</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>87,570</td>
<td>4.8%</td>
<td>$46.10 M</td>
<td>4.5%</td>
</tr>
<tr>
<td>Puerto Rico</td>
<td>1,024</td>
<td>0.1%</td>
<td>$ 0.70 M</td>
<td>0.1%</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>9,451</td>
<td>0.5%</td>
<td>$ 5.05 M</td>
<td>0.5%</td>
</tr>
<tr>
<td>South Carolina</td>
<td>16,776</td>
<td>0.9%</td>
<td>$ 7.96 M</td>
<td>0.8%</td>
</tr>
<tr>
<td>South Dakota</td>
<td>1,034</td>
<td>0.1%</td>
<td>$ 0.95 M</td>
<td>0.1%</td>
</tr>
<tr>
<td>Tennessee</td>
<td>15,405</td>
<td>0.8%</td>
<td>$ 9.70 M</td>
<td>0.9%</td>
</tr>
<tr>
<td>Texas</td>
<td>93,529</td>
<td>5.1%</td>
<td>$46.64 M</td>
<td>4.5%</td>
</tr>
<tr>
<td>Utah</td>
<td>7,987</td>
<td>0.4%</td>
<td>$ 3.91 M</td>
<td>0.4%</td>
</tr>
<tr>
<td>Vermont</td>
<td>4,455</td>
<td>0.2%</td>
<td>$ 3.55 M</td>
<td>0.3%</td>
</tr>
<tr>
<td>Virginia</td>
<td>60,310</td>
<td>3.3%</td>
<td>$33.75 M</td>
<td>3.3%</td>
</tr>
<tr>
<td>Washington</td>
<td>69,667</td>
<td>3.8%</td>
<td>$36.93 M</td>
<td>3.6%</td>
</tr>
<tr>
<td>West Virginia</td>
<td>5,052</td>
<td>0.3%</td>
<td>$ 1.71 M</td>
<td>0.2%</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>16,395</td>
<td>0.9%</td>
<td>$ 8.63 M</td>
<td>0.8%</td>
</tr>
<tr>
<td>Wyoming</td>
<td>1,519</td>
<td>0.1%</td>
<td>$ 0.73 M</td>
<td>0.1%</td>
</tr>
</tbody>
</table>
A study of the more developed markets in other countries may help identify points of concern and direct the governing of pet insurance products in the U.S. There are no filing or producer licensing requirements in the UK or Sweden, so no instructive elements can be gleaned from their experience on these two issues. The Canadian market is similar to the U.S. market in both products and market penetration, having developed over a similar time period. Pet insurers report that 70% of sales are initiated online, and 30% are initiated through call centers.

California is currently the only state with a law specifically governing pet insurance. California Insurance Code 12880 through 12880.4 were created in 2014 and can be found in Appendix 2. The laws require pet insurers to disclose baseline information regarding reimbursement benefits, preexisting condition limitations, and a clear explanation of limitations of coverage including coinsurance, waiting periods, deductibles, and annual or lifetime policy limits. The California laws also provide consumers with a 30-day “free look” period in which a pet insurance policy can be returned for a full refund. An earlier version of this bill attempted to prevent exclusions for preexisting conditions but was vetoed by the Governor of California. A pet insurance bill was introduced, but not enacted, in New York.

None of the failed bills or the California statute address producer or adjuster licensing. Most states require a full P/C license to sell, solicit or negotiate pet insurance, while a few states—Idaho, New Jersey, Rhode Island and Virginia—allow for use of a limited lines license.

**CARRIERS**

As noted above, insurance companies commonly advertise pet insurance products using the insurers’ brand name (a practice referred to as “branding”) rather than the insurance company name. Branding is common practice in many lines of business, not limited to pet insurance and with proper disclosure should not present any legal or regulatory concerns. Additionally, it is commonplace in the pet insurance market for branded entities to change underwriters for their pet insurance program with some frequency. This makes it difficult for examiners to identify licensed entities associated with the sale of pet insurance products and to track compliance with regulatory requirements. When insurers use a brand name, the

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3 California has a pending bill, CA AB 1535, that would require pet insurers to provide additional disclosures to consumers.
insured must read the fine print at the bottom of the advertisement, application or website to find the identity of the underwriting company. In addition to use of brand names, one to three agencies may sell the pet insurance products for an insurer under a specified brand name. The agency communicates with the consumer and receives applications. In most cases, the agency is also responsible as a third-party administrator (TPA) for claims processing and answering consumer inquiries. This practice can cause confusion for consumers to determine the entity responsible for paying claims and who should be named if they need to file a complaint with the state insurance department.

**COVERAGE OPTIONS**

Two coverage types are available through a majority of carriers selling pet insurance: 1) accident only; and 2) accident and illness. According to NAPHIA, 98% of policies written in 2017 were for accident and illness insurance which may include embedded wellness, while 2% were accident only. The average premium for accident and illness plans was approximately $516, while the average premium for accident only plans was approximately $181 per pet in the U.S. in 2017.

Some veterinary clinics offer agreements for preventive care. If the agreement is a two-party contract between the veterinarian and consumer where no risk is transferred or assumed and no third party is involved, these plans are not insurance. However, these may cause confusion for consumers as they may be construed as insurance. Regulators should be aware that these exist as they may be called upon to review the structure of the agreement.

Coverage options vary by carrier. Most companies write coverage for dogs and cats only. One carrier also has policies for exotic pets, such as reptiles and birds. Consistent with human or non-pet coverage, plans have varying deductibles, copayments and limits. In most cases, pet owners must pay the vet directly and wait to be reimbursed by the insurance carrier or account administrator. Reimbursement methods differ. Some include a benefit schedule based on illness or injury and coverage level. There are waiting periods and pre-coverage exams required in many cases. Pets must be above the minimum and below the maximum age limits to begin coverage. Many carriers exclude coverage for pets less than 8 weeks old or older than twelve years. Exclusions exist for preexisting conditions, and there may be limitations on coverage for hereditary or congenital conditions as well. Definitions of conditions are inconsistent across
policies and, therefore, may have varying impacts on the consumer’s ability to receive reimbursement for claims. Appendix 1 contains a glossary of terms as defined in California Assembly Bill No. 2056, Chapter 896, requiring use of the specified terms for all policies that are marketed, issued, amended, renewed or delivered to a California resident, on or after July 1, 2015. While there are many different policies on the market today with various coverage options, most policies include:

- **Two primary coverage types: accident only, or accident and illness plans.** Comprehensive policies may cover reasonable and necessary veterinary expenses that occur during the policy period for medical management, diagnosis or treatment of a pet’s condition. Veterinary expenses or services include medical advice, diagnosis, care or treatment provided by a veterinarian. Other services and medical expenses that may be covered include the costs of the visit, prescription drugs, food, supplements and medical equipment, surgical procedures, physical therapy, and dental procedures.

- **Optional wellness and preventive coverage.** Such coverage may be available, which covers veterinary expenses during the policy period for preventive treatment or treatment provided to preserve or improve general nutrition or health when there are no underlying symptoms of an associated diagnosed medical condition. This typically includes vaccinations, flea and heartworm medication, wellness exams, blood tests, radiographs, heartworm tests, screens, urinalysis, deworming, pet identification (microchip), spaying or neutering, dental cleaning, genetic certification, etc.

- **Different plan options.** Pet health insurers may offer different plan options or tiers with varying policy limits.

- **Description of the veterinarians and clinics that may be used under the plan.**

- **Limits, which may be annual, lifetime, per procedure, per incident or a combination.** Optional coverages may have special limits.

- **Copayments applicable to the cost of each procedure, an overall limit or other basis.** Generally, there is a coinsurance percentage and/or deductible.

- **Waiting periods for injury, illness and orthopedic care.** Pet health waiting periods are usually broken up into two separate periods for illness and injury, but other pet health insurers may add longer waiting periods for specific coverages such as orthopedics or cruciate ligament events, etc. Although most of the definitions in pet health policies for waiting periods include
the language “these waiting periods are waived for continuous renewal,” the waiting periods may apply again if there are policy changes.

- **Policy exclusions, which often include exclusions for preexisting conditions.** Some may even exclude coverage in renewal policies for conditions diagnosed or treated in prior coverage periods. Many policies also exclude coverage for congenital and heredity conditions, such as hip dysplasia, heart defects, cataracts and diabetes. Other typical exclusions may include: preventive treatment or wellness care; dental care; vaccinations; flea prevention; spaying or castration; behavioral training/therapy or treatment; procedures, services or supplements for a condition not covered by the policy; service or procedures not performed or prescribed by a licensed veterinarian; over-the-counter food or supplies; boarding or accommodation; transportation; grooming; membership fees; experimental and/or investigative treatment that is not within the standard of care; diagnosis, treatment, tests or procedures associated with breeding etc.

- **A schedule or plan for recovery of benefits.** Most plans include a reimbursement model, meaning the insured must pay out of pocket to the veterinarian and be reimbursed by the insurer. Only one carrier in the market today pays the veterinarian directly.

- **Nondiscretionary arbitration provisions.** Many contracts contain nondiscretionary arbitration provisions. Alternatively, some pet insurance policies contain language that set forth an arbitration process that requires peer review of the treatment provided by a veterinarian as opposed to engaging in an arbitration process conducted through the American Arbitration Association (AAA).

The coverage options and policy details associated with pet insurance are like those found in human health insurance. However, pet insurance is regulated and reported as P/C coverage because pets are considered property under the law. Provisions for in-network providers, co-insurance or co-payment, exclusions for preexisting conditions, age limits and waiting periods are more like health insurance than P/C coverage.

Consumers may want to research policy provisions on their own prior to purchase. There are several consumer websites that provide guidance on pet insurance products. Consumers should also be aware that the price of insurance may increase substantially as the animal gets older. These websites also provide additional information on some of the policy provisions identified in the prior paragraphs.
POLICY FORMS

State law governs the requirements for policy review in a given line of business. State law may govern that the state is use and file, file and use, or prior approval. File and use means that the form must be filed with the state insurance regulator but can be used before approval is obtained. Use and file means the form can be used before it is filed with the state insurance regulator. Prior approval requires that all insurance policy forms, riders and endorsements be approved by the insurance commissioner/superintendent/director prior to being issued and sold to the public. While prior approval provides the highest level of oversight because policy forms cannot be used until approved, use and file, and file and use still provide states with the oversight to review filings for compliance with state-specific requirements.

A basic insurance policy form is an insurance contract delineating the terms, provisions and conditions of an insurance product. It includes endorsements and applications where written application is required and is to be attached to the policy or be part of the contract.

Although state regulation of insurance was initially designed to prevent insurer insolvency, regulatory jurisdiction has evolved over the decades to protect consumers. Policy form review is an integral part of market regulation. Policy forms are reviewed to ensure statutory compliance and to ensure products are fair and not harmful to consumers. Regulatory review also helps insurance companies as examiners may catch errors, inconsistencies, ambiguous or misleading language, and omission before products are offered to the public. This helps improve the quality of products offered and promote consumer confidence.

Policy form filings may be submitted through SERFF in most states. Currently, six states and the territories are not using SERFF for policy filing review. Policy form filings are generally submitted separately for each program. Insurers must be properly licensed for the appropriate line of business prior to submission of a form filing. Regulatory analysts review the policy forms submitted in the SERFF form filing to check for compliance issues relative to federal and state law, regulation, legislation or mandated language, and any state-specific advisory letters or bulletins issued by the insurance commissioner/superintendent/director in the state.

MARKETING STRATEGIES

Pet insurance may be sold via online marketing, veterinary clinics, pet stores, shelters and animal support and rescue organizations or word of mouth referrals. Pet insurance may also be sold as part of an employee benefit package or through licensed insurance producers. The most common distribution methods are web-based marketing and referrals from veterinary clinics or friends and family. Veterinary offices, clinics or hospitals may promote pet insurance products to their customers or allow placement of printed materials throughout their office. Printed marketing materials may refer consumers to a website to obtain further information about a product. Materials sometimes include an application or phone number for the insurance company, a licensed insurance producer or TPA. The veterinarian may partner with one brand exclusively or provide customers with brochures or pamphlets on several different brands. In addition, kennels and breeding clubs may promote coverage for pets or even have preferred carriers for specific breeds. Also, some organizations include information on pet insurance on their website to educate consumers about pet insurance and to assist consumers in making comparisons between coverage options. However, as of this writing, none of that information has been vetted by the NAIC.

The fastest growing form of distribution is through an employee benefit package. Coverage may be sponsored in part by the employer or entirely employee paid. Special employee pricing is sometimes offered with group discounts. According to Nationwide, 50% of Fortune 500 companies offered pet insurance as an employee benefit in 2017.

LICENSING

To encourage uniformity, the Producer Licensing (D) Working Group developed the ULS within the State Licensing Handbook (Handbook). Adopted originally in 2002, the ULS is a guide for state insurance regulators to use in their producer licensing process. In the November 2011 update, ULS #37 was added to address non-core limited lines licensure. Pet insurance was mentioned as an example, and a definition of “limited lines pet insurance” was included to mean an insurer designee, such as a managing general underwriter, managing general agent (MGA) or limited lines producer of pet insurance. As of September 2018, four states—Idaho, New Jersey, Rhode Island and Virginia—offer pet insurance as a non-core limited line.
Several market conduct enforcement actions on pet insurers were reported from 2015 to 2016. The issues identified in these actions included unlicensed sales, illegal inducements and rebating, improper use of rates, and unlawful claims practices.

The Producer Licensing (D) Task Force has held several meetings to discuss the type of license states should require of producers who are to sell, solicit or negotiate pet insurance policies.5 “Negotiate” is defined in the Producer Licensing Model Act (#218) as “the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.” State insurance regulators agree pet insurance should not be sold by unlicensed individuals, but what level of licensure and what steps should require licensure are open topics of discussion.

There is an open debate as to whether insurance producers and claims adjusters (in states where claims adjusters are licensed) should be required to have a full P/C license or a limited lines license to sell pet insurance. According to Model #218,6 to obtain a resident license for the P/C line of authority, one must pass a written examination. According to the Handbook, states that require prelicensing shall require 20 credit hours of prelicensing education per major line of authority. The six major lines of authority identified in the Handbook are: 1) life; 2) accident and health (A&H) or sickness; 3) property; 4) casualty; 5) variable life and variable annuity; and 6) personal lines. Limited lines are considered alternatives to the major lines of authority. The products offered and the licensing requirements for limited lines tend to be more limited in scope.

Except for crop and surety, prelicensing examinations are not required for limited lines. Under both reciprocity standards set forth in Model #218 and the ULS, prelicensing education is not required for nonresident applicants or nonresident producers who change their state of residency. Additionally, 24 credits of continuing education (CE) are required for each biennial compliance period only if the producer holds a license in one of the six major lines of authority. The Handbook also states that a person licensed as a limited lines producer in his or her home state shall receive a nonresident limited lines producer license, granting the same scope of authority as granted under the license issued by the provider’s home

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5 Summer 2017 and Fall 2017 National Meeting Proceedings.

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state. This may be problematic if the type of license is inconsistent across states for a specified line of authority. A benefit of having the full licensing requirements is that education and testing requirements for licensure ensures that producers are competent and qualified to sell insurance to consumers, ultimately resulting in consumer protection. Alternatively, some take the position that the individuals most able to provide information on pets and pet insurance are those outside of the traditional insurance distribution channels. They may also argue that, under ULS #37, the traditional pre-licensing, testing and continuing legal education (CLE) do not include topics specific to pets or pet insurance; as such, the limited lines license model is more appropriate. As noted in the excerpt below, individuals offering insurance on a limited lines basis must receive a program of instruction or training subject to review by the insurance department.

In June 2015, the New Jersey Department of Banking and Insurance, Division of Insurance adopted N.J.A.C. 11:17-2.4 adding pet insurance to the list of limited lines coverage. The proposed rule cited the following reasons: 1) pet insurance products are offered by pet stores, veterinarian offices, pet training facilities, and other similar establishments, and are incidental to the services offered by such business, and 2) the knowledge and training needed to offer the product is unrelated to typical property and casualty insurance products and, as such, qualifies pet insurance as a limited line.

In November 2015, the former Producer Licensing (D) Working Group adopted the following addition to ULS guideline # 37 in the Handbook:

“A state is not required to implement any non-core limited line of authority for which a state does not already require a license or which is already encompassed within a major line of authority; however, the states should consider products where the nature of the insurance offered is incidental to the product being sold to be limited line insurance products. If a state offers non-core limited lines (such as pet insurance or legal expense insurance), it shall do so in accordance with the following licensing requirements. Individuals who sell, solicit or negotiate insurance, or who receive commission or compensation that is dependent on the placement of the insurance product, must obtain a limited line insurance producer license. The individual applicant must: 1) obtain the limited lines insurance producer license by submitting the appropriate application form and paying all applicable fees as set forth in applicable state law; and 2) receive a program of instruction or training subject to review by the insurance department.” The Working Group defined pet insurance
as “health insurance coverage including, but not limited to, coverage for injury, illness and wellness for pets such as birds, cats, dogs and rabbits.”

Another issue to consider regarding producer licensing is claims handling. One approach could be to require the business to hold or maintain a license and designate one person to be licensed within the organization. This is similar to the license required for portable electronics insurance which is sold to cover the cost of repair or replacement of the electronic device being sold. Employees assisting in claims handling would not be required to be licensed under certain circumstances if their claim-related activity was limited to pet insurance. Due to the complex coverage options offered by pet insurance policies it may not be in the best interest of the consumer to allow unlicensed individuals to adjust pet insurance claims. Alternatively, adjusters must review veterinary records including non-standard pet health codes which may require technical knowledge and expertise in animal science. This is not dissimilar to other lines of business where subject matter experts work in conjunction with licensed adjusters or adjusters need specialized training to effectively handle claims where a high level of technical knowledge is required. A combination of adjuster training and access to subject matter experts is needed to properly adjust pet insurance claims. Other lines of business may have separate licensing requirements for producers and adjusters requiring a full property casualty license for producers and a limited lines license for adjusters.

RATES

Pet insurance is regulated as a P/C insurance line of business included in the annual statement under inland marine. There is no specific financial reporting line for pet insurance making it difficult to track the premiums attributable to pet insurance. Like most P/C lines, the rates and rating rules are regulated by the department of insurance (DOI) of the state in which the policies are written. SERFF contains a specific sub-type of insurance for pet insurance plans (9.0004). However, its use is not consistent in all states. For instance, in Rhode Island, pet insurance policies are filed under inland marine, a personal insurance code, rather than under the pet sub-type of insurance. Florida and, until recently, Virginia require pet insurance to be filed under livestock. Proposed rates and rating rules are frequently scrutinized by insurance professionals working within or under contract for the DOI to ensure that the rates are not inadequate, excessive or unfairly discriminatory.
When an insurer initiates a pet insurance program in a given state, and each time it wishes to change the rates and/or rating rules, the insurer files its proposal, with supporting documentation and various state-specific information, with the DOI. The DOI reviews the filing and either approves or disapproves the insurer’s plan. State-specific filing guidance can be found at each state DOI’s website. (See https://www.serff.com/serff_filing_access.htm.)

Like in other lines of insurance, for pet policies, the rate or premium charged is intended to cover the three basic costs of the insurer: 1) claim costs (also known as losses); 2) the insurer’s expenses; and 3) a profit provision. The claim costs represent the largest portion of the insurance premium dollar (60% to 70% for most P/C lines) and include loss adjustment expenses (LAE). The expenses of the insurer include commissions paid to agents, general operating expenses, premium taxes and other fees paid to states. The profit provision (also known as profit and contingencies) affords a reasonable return on the insurer’s invested capital. A significant amount of capital must be available to guard against poor claim experience and catastrophes. Figure 5 shows the typical components of each premium dollar charged for pet insurance.

FIGURE 5.
As discussed in detail under the coverage options section above, many pet insurance carriers offer more than one health plan. By far the most common is an “accident and illness” plan covering both fortuitous injuries, as well as health issues of the pet (subject to various limitations and exclusions). A less expensive alternative is an accident-only plan, which may cost around 60% less than an accident and illness plan. Most policies are written on an annual basis.

For an additional charge, typical plan options can include (on a bundled or unbundled basis):

- Preventive/wellness care
- Dental care
- Spay/neuter
- Cancer treatment
- Diabetes coverage
- Inherited/congenital conditions
- Behavioral therapy
- Prescription coverage
- Alternative medicine
- Lost pet recovery
- Ambulance care
- Euthanasia/cremation/funeral coverage
- Accidental death benefit
- Travel/vacation coverage
- Boarding/kenneling (unforeseen circumstances)

Few insurers offer preventive or wellness as a stand-alone coverage. It is typically offered as an add-on to an accident and illness policy.

**RATING**

To understand pet health insurance rates, one can think of an overall rate level and a rate structure. The overall rate level is usually represented by a base rate. A base rate is the starting point before various rate structure modifications are made. The rate structure can be viewed as a set of tables of multiplicative factors that modify the base rate according to various risk characteristics.
Given a rate structure, the base rate can be viewed as a scaling factor that adjusts the overall rate level to an appropriate magnitude. Consider a highly simplified example in which the rate structure recognizes two species (dog and cat) and two geographic classifications (rural and urban). Let us say the rate structure has the following rating factors:

<table>
<thead>
<tr>
<th>Geographic Class</th>
<th>Rural</th>
<th>Urban</th>
</tr>
</thead>
<tbody>
<tr>
<td>Species</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dog</td>
<td>1.00</td>
<td>2.00</td>
</tr>
<tr>
<td>Cat</td>
<td>0.60</td>
<td>1.20</td>
</tr>
</tbody>
</table>

In this rate structure, all else equal, the cat necessitates 40% less cost than the dog, and urban areas entail 100% more cost than rural areas. Of course, the insurer must select an overall dollar rate level to apply the four rating factors as appropriate. Let us say the insurer selects an annual base rate of $300. Then, a table of annual rates can be laid out as the above table of rating factors, multiplied by $300, which represents the dollar-denominated scaling factor for the rating system:

<table>
<thead>
<tr>
<th>Geographic Class</th>
<th>Rural</th>
<th>Urban</th>
</tr>
</thead>
<tbody>
<tr>
<td>Species</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dog</td>
<td>$300</td>
<td>$600</td>
</tr>
<tr>
<td>Cat</td>
<td>$180</td>
<td>$360</td>
</tr>
</tbody>
</table>

Building the rates upon an overall rate level and rate structure allows the insurer to easily analyze and adjust rates over time. Inflation in veterinary costs will cause the base rate to increase over time. The rate structure will often stay stable for years at a time. Modest adjustments may be needed due to changes in cost drivers. Insurers typically monitor known cost drivers for increases over time.

Pet insurance rate structures are relatively similar across insurers but will have some variances in the risk characteristics, the rating factors for those risk characteristics, or both. Insurers generally use the same rate structure in all states where they operate, but there may be exceptions based on a company initiative or state regulatory requirement.

Policy premium is the amount charged to the insured for coverage. An installment fee may be applied if the insured elects to pay for the insurance in installments rather than paying in full at the beginning of the
policy term. Installment fees typically vary from $1 to $6 per pay period, depending on the insurer and the mode of payment (electronic funds transfer (EFT), credit card, etc.). An insurer may charge other fees such as non-sufficient fund fees, late fees, and reinstatement fees. These ancillary fees generally vary from $10 to $30 each. All fees, including ancillary fees, must be properly disclosed in rate filings along with supporting documentation.

**RATING VARIABLES**

A rating variable is a characteristic of a rating plan. Typical rating variables for pet health insurance include geographic area, deductible, copay, limit, species, pet age, breed, etc. These rating variables are discussed in more detail below.

**Geographic Area**

Pet insurance rates generally vary by state and often by territory within the state. These territories are usually drawn along the boundaries of counties or ZIP code groupings. Generally, the rates will be higher in urban areas due to higher costs of veterinary services and other socioeconomic factors. For pet insurance, geographic rating factors may range from 1.000 on the low end to 2.000 for the highest cost areas in the U.S.

**Deductible**

A deductible is the amount of money an insured has agreed to pay for pet treatment before the insurer begins paying out on provided coverage. The deductible is intended to ensure that the insured seeks only necessary pet health treatment and pays for much or all of the smaller claims, with the insurer paying out only for larger claims. Discounts are provided for higher deductibles, resulting in lower annual premiums. Typical deductibles range from $50 to $250, although higher deductible plans can be purchased at a substantial premium savings.

Deductibles are typically provided by insurers on a per incident or an annual basis. Some insurers allow the insured to select either annual or per incident options, while others only have one reimbursement method. Coverage typically costs more with an annual deductible because it tends to result in a higher
cost for the insurer and lower cost for the insured. Coverage with an annual deductible routinely costs 4% to 6% more than a per incident deductible plan.

**Co-Insurance or Copay**

The co-insurance percentage (sometimes referred to as copay) is the percentage of loss the insured has agreed to pay after the deductible is satisfied. Much like the deductible, the co-pay is intended to encourage the insured to use the insurance judiciously, with some “skin in the game” in partnering with the insurer to keep costs at a necessary and reasonable level. Copays are usually provided as multiples of 10—i.e., 10%, 20%, 30% and possibly higher. As compared with a 10% co-pay, a 20% co-pay can save between 5% and 25% of the insurance cost, depending on the insurer. Premium discounts are provided for out-of-pocket costs in the form of the copayments for the insured. Plans with 0% copay may be available for a higher premium amount.

**Limit**

Insurance policy limits are the maximum dollar amount an insurer will pay for claims. Policy limits are normally expressed on a per incident basis, as well as an aggregate policy term basis. Many insurers have both per incident and aggregate limits for one policy. Few insurers also use maximum lifetime limits (i.e., for the life of the pet). Higher limits are more expensive because they could ultimately result in higher claim payments for the insurer. An illustration follows:

| Deductible | $100  |
| Deductible Type | Per Incident |
| Copay | 20% |
| Per Incident Limit | $1,000 |
| Annual Limit | $10,000 |

(1) Amount Charged for Pet Treatment $75 $150 $1,500 (three different scenarios shown)
(2) Amount Paid by Insurer $0 $40 $1,000
(3) Amount Paid by Insured $75 $110 $500

**NOTES:**
$75 treatment: $0 = $75 – $100, subject to a minimum of $0

$150 treatment: $40 = ($150 – $100) x (100% – 20%)

$1,500 treatment: $1,000 = ($1,500 – $100) x (100% – 20%), subject to a maximum

of $1,000 (i.e., the per incident limit)

(3) = (1) – (2)

Also: If there had been 12 $1,500 treatments in the course of an annual policy term, the insurer would have paid the first 10 only at $1,000 each, since the insurer’s annual limit (maximum liability) of $10,000 would have been reached at that point.

Species
Most pet insurance carriers offer insurance for dogs and cats. Only one insurer offers coverage for other types of animals, such as birds and reptiles, under its exotics policy.

Pet Age
Most insurers will not cover pets less than eight weeks old or more than 12 years old. Health risks tend to be greater for these age ranges. For both dogs and cats, older pets can cost two to four times as much, depending on the insurer.

A few insurers use the age at which the pet was initially enrolled for health insurance, either in addition to or in lieu of the pet’s current age. Use of initial enrollment age allows an insurer to guard against adverse selection—e.g., an older pet in failing health being insured for the first time. If the exact age of a pet is not known, the insurer may ask the insured to obtain an estimate from the pet’s veterinarian. At least one insurer uses four different age curves for dogs depending on their weight. Typically, the heavier the dog, the steeper the age curve.

Breed
There are more than 100 dog breeds and around 50 cat breeds. Some of the most common dog breeds in the U.S. are Mixed Breed, Labrador Retriever, Golden Retriever, German Shepherd, Rottweiler, Bulldog, Poodle, Terrier and Boxer. Common cat breeds are the American Shorthair, Maine Coon, Oriental, Persian, Ragdoll, Siamese, Sphynx, Birman and Abyssinian. Most insurers group the breeds into 10 or 12 rating categories, with each category assigned a rating factor. Smaller dogs and mixed breeds are frequently in the lower rating categories, while larger pure-breed dogs are assigned to the higher rating categories. Dogs in the highest rated category can cost 50% to 75% more than the lowest rated group. Cost
variances for cats tend to be less. The cat breed factor curve will usually be significantly flatter, 0% to 50% more cost for highest rated versus lowest rated breed. This reflects the fact that the breeds are significantly more homogeneous for cats than dogs in terms of size, build and other characteristics.

**Multi-Pet**

Many insurers offer a multi-pet discount because of the reduced administrative expenses per pet for a multi-pet policy. Multi-pet discounts are often in the 5% to 10% range.

**Group Marketing**

Many insurers offer a group marketing discount, also known as an association or affiliation discount. Marketing discounts recognize cost efficiencies of partnering with different types of organizations in promoting the insurer’s product and offering seminars, pamphlets and other services that strive to lower pet health costs. Typical partners include designated corporate groups (i.e., group benefit plans), affinity groups, strategic partners and veterinary clinics, for which the employees and/or members may receive the discount. Group marketing discounts are often in the 5% to 10% range.

**Miscellaneous**

Other rating variables used by some insurers include:

- Policy term (i.e., pro rata factor if other than one year).
- Waiting period length (discount for longer periods).
- Renewal discount.
- Claim-free discount.
- Pet gender (i.e., females rated about 5% less than males).
- Spay/neuter discount.
- Wellness plan discount.
- Predictive test discount.
- Exam fee coverage (discount for exclusion).
- Microchip/identification tattoo discount.
• Service or therapy dog discount (or surcharge).
• Military discount.
• Animal health employee discount.
• Shelter adoptee discount.
• Automated clearing house (ACH) payment discount.
• Premium paid-in-full discount (i.e., no installment plan used).
• Online enrollment/paperless policy administration discount.

**RATING EXAMPLE**

For a typical accident and illness plan, an illustrative and hypothetical example of the workup of a rate follows:

**Overall Rate Level:**

- **Annual Base Rate**: $300
- **Geographic Area**: #1
- **Deductible**: $100
- **Deductible Type**: Per Incident
- **Co-pay**: 10%
- **Per Incident Limit**: $1,000
- **Annual Limit**: $10,000
- **Species**: Dog
- **Pet Age**: Less than 1 year
- **Breed Group**: 1
- **Multi-Pet**: No
- **Group Marketing Member**: No

**Rate Structure Adjustments:**

- **Geographic Area (#3)**: 1.160
- **Deductible ($150)**: 0.955
- **Deductible Type (Annual)**: 1.060
- **Co-pay (20%)**: 0.925
Per Incident Limit ($2,000)  1.280
Annual Limit ($10,000)  1.000
Species (Dog)  1.000
Pet Age (5)  1.240
Breed Group (4)  1.050
Multi-Pet (No)  1.000
Group Marketing Member (Yes)  0.950
Final Rate  $516 (i.e., $300 x 1.160 x … x 0.950)

**RATEMAKING**

Ratemaking represents the estimation of a set of rates needed to manage an insurance program. Rating uses a set of rates to determine which rate is appropriate for a particular risk given its risk characteristics. Generally, ratemaking is performed by an actuary; rating is performed by an underwriter. An overview of actuarial science is provided in Appendix 3.

Actuarial standards of practice set forth principles and considerations for an actuary estimating costs associated with the transfer of risk. Principle 1, Principle 2 and Principle 3 from the Casualty Actuarial Society’s (CAS) Statement of Principles Regarding Property and Casualty Insurance Ratemaking are particularly relevant:

- **Principle 1**: A rate is an estimate of the expected value of future costs.
- **Principle 2**: A rate provides for all costs associated with the transfer of risk.
- **Principle 3**: A rate provides for the costs associated with an individual risk transfer.

Adherence to these principles should lead to P/C rates that are reasonable, not excessive and not unfairly discriminatory.

Some of the most important Actuarial Standards of Practice (ASOPs) published by the Actuarial Standards Board (ASB) that pertain to pet health insurance ratemaking include:

- ASOP 12 – Risk Classification
- ASOP 13 – Trending Procedures in Property/Casualty Insurance
- ASOP 23 – Data Quality
- ASOP 25 – Credibility Procedures
- ASOP 29 – Expense Provisions in Property/Casualty Insurance Ratemaking
• ASOP 30 – Treatment of Profit and Contingency Provisions and the Cost of Capital in Property/Casualty Insurance Ratemaking
• ASOP 41 – Actuarial Communications

RATEMAKING EXAMPLE

If the actuary can estimate the expected losses for a given policy and knows the expense structure, he/she can estimate the needed rate as a grossing up of the expected losses. This approach is often used at the onset of an insurance program.

BASIC RATEMAKING FORMULA

A simple example

Suppose:
- Only cash flows are:
  - Premium
  - Losses (L) of $240
  - Expenses (E) of 33.3%
    (all expenses variable with premium)

Then:
- Premium = $240 / (100.0% – 33.3%)
  = $240 / 66.7%
  = $360

So, here’s the transaction:

| Collect $360 in rate | Then pay 33.3% expenses ($120) | And have $240 left to pay claims |

As the insurance program grows and develops a significant amount of premium, the actuary will normally analyze the performance annually to determine the indicated rate change. The goal is to estimate how much the premiums would need to be adjusted to bring the relationship between losses and premiums (loss ratio) in line with the targeted loss ratio as implied by the expense structure. An example is provided below.
### Overall Rate Indication

**A simple example**

Assume all expenses are variable with premium and add to 33.3% of premium. Earned premium and incurred losses have been “adjusted to current levels.”

<table>
<thead>
<tr>
<th>Accident Year</th>
<th>Earned Premium</th>
<th>Incurred Losses</th>
<th>Loss Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>125,000</td>
<td>50,000</td>
<td>40.0%</td>
</tr>
<tr>
<td>2014</td>
<td>370,000</td>
<td>209,000</td>
<td>56.5%</td>
</tr>
<tr>
<td>2015</td>
<td>490,000</td>
<td>220,000</td>
<td>44.9%</td>
</tr>
<tr>
<td>2016</td>
<td>600,000</td>
<td>355,000</td>
<td>59.2%</td>
</tr>
<tr>
<td>2017</td>
<td>720,000</td>
<td>395,000</td>
<td>54.9%</td>
</tr>
</tbody>
</table>

**Total/Average**

<table>
<thead>
<tr>
<th>Earned Premium</th>
<th>Incurred Losses</th>
<th>Loss Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>$2,305,000</td>
<td>$1,229,000</td>
<td>53.3%</td>
</tr>
</tbody>
</table>

**Notes:** Loss Ratio = (Incurred Losses)/(Earned Premium): -20.1% indication = 53.3%/66.7% · 1

### Example of Rate Structure Change:

Assuming the book of business is equally weighted between rural dogs, rural cats, urban dogs, and urban cats, the rating factors are as follows:

<table>
<thead>
<tr>
<th>Geographic Class</th>
<th>Species</th>
<th>Rural</th>
<th>Urban</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dog</td>
<td>1.000</td>
<td>2.000</td>
<td></td>
</tr>
<tr>
<td>Cat</td>
<td>0.600</td>
<td>1.200</td>
<td></td>
</tr>
</tbody>
</table>

Average rating factor = 1.200 = (25% x 1.000) + (25% x 0.600) + (25% x 2.000) + (25% x 1.200)

Average rate = $360 = ($300 base rate) x (1.200 average rating factor)
If the loss experience in the rural category is 10% better than expected and the urban experience is 25% better than expected (overall experience 20% better than expected), then the indicated rating factors would be:

<table>
<thead>
<tr>
<th>Geographic Class</th>
<th>Species</th>
<th>Rural</th>
<th>Urban</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dog</td>
<td>0.900</td>
<td>1.500</td>
<td></td>
</tr>
<tr>
<td>Cat</td>
<td>0.540</td>
<td>0.900</td>
<td></td>
</tr>
</tbody>
</table>

Average rating factor = 0.960 = (25% x 0.900) + (25% x 0.540) + (25% x 1.500) + (25% x 0.900)

The rural dog is intended to be the starting point in the rating system with a factor of 1.000, so all four factors need to be multiplied by 1.111 to rebase the starting point.

<table>
<thead>
<tr>
<th>Geographic Class</th>
<th>Species</th>
<th>Rural</th>
<th>Urban</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dog</td>
<td>1.000</td>
<td>1.667</td>
<td></td>
</tr>
<tr>
<td>Cat</td>
<td>0.600</td>
<td>1.000</td>
<td></td>
</tr>
</tbody>
</table>

Average rating factor = 1.067 = (25% x 1.000) + (25% x 0.600) + (25% x 1.667) + (25% x 1.000)

The average rate started at $360 and the experience came in 20% better than expected, so the new system should have an average rate of $288 (= $360 x (100% – 20%)). Because the new rate structure has an average rating factor of 1.067, the new base rate should be $270 (= $288 / 1.067).

**ANNUAL STATEMENT DATA**

Pet insurance is a health insurance policy for a pet. This is a relatively new product to the insurance market and is regulated as P/C. Pet insurance is filed within the NAIC Financial Annual Statement on the Exhibit of Premiums and Losses (state page) for inland marine (line 09). This is unique to P/C because the policy is not purchased to insure an animal for purely monetary reasons. Pet owners purchase this type of insurance to protect their pet’s health and help manage the cost of veterinary bills. Coverage includes veterinary care plan insurance policies. Veterinary care plan policies provide coverage for the insured’s pet in the event of illness or accident. Insurance companies report total premium for pet insurance under inland marine insurance, which may include other coverages such as travel insurance, jewelry and other scheduled personal property. As a result, determining the exact premium volume for a product within the
inland marine line is challenging. The NAPHIA provides for a fee, premiums by state in its annual State of the Market Report. The information does not provide a breakdown by company, however, and such information would likely require a separate data call or modification to the NAIC Financial Annual Statement. Modification could include a separate line item on the state page specifically for pet insurance. Although inland marine (line 09) of the state page will account for most pet insurance data, additional data may be found under farmowners multiple peril (line 03), commercial multiple-peril (line 05) and aggregate write-ins for other lines of business (line 34). Also, depending on the type of animal insured, there could be additional categories in other inland marine areas, such as livestock (line 9.0001). Finally, homeowners’ policies (line 04 on the state page) may include insurance coverage if a pet causes someone injury, as in a dog bite. However, homeowner’s insurance covers the owner’s liability only and does not provide medical coverage for the insured’s pet. Several exclusions, including specified dog breeds, apply.

**CLAIMS PRACTICES**

According to NAPHIA’s 2018 State of the Industry Report, approximately 1.83 million pets in the U.S. were covered by pet insurance, with 98% of those being accident and illness policies, earning insurers more than $1 billion in premium. In a high frequency, low severity product line, how claims are handled has a significant impact on an insurer’s profit, as well as its ability to attract and maintain customers. State insurance regulators have historically identified claim practice concerns through tracking of consumer complaints. However, this information is not readily available for pet insurance for a couple of reasons. The first reason is pet insurance is not separately identified in most state complaint databases. To remedy this lack of information, states using State Based Systems (SBS) could include a separate item in the complaints section for pet insurance. The second reason for the lack of information regarding consumer complaints tied to pet insurance could be because consumers do not know how to file claims or which entity they should report due to the use of brand names.

NAPHIA provided complaints data representing the number of complaints reported to the state department of insurance for each of its member companies. The total represents the minimum number of complaints reported as it does not include information for all companies nor does it consider complaints filed directly with the insurer or via any method other than those filed directly with the state department of insurance. According to NAPHIA, in 2017 a total of 320 complaints were filed with a department of insurance. This represents a 0.0174% complaint ratio (320 complaints/1.8 million policies). Without a measurable system
to track all complaints specific to pet insurance it is difficult to determine if the low complaint volume is attributable to consumer satisfaction with the products available in the market.

To supplement the data obtained from NAPHIA, independent research into pet insurance claim practices was conducted using available online consumer review resources such as ConsumerAdvocate.org, ConsumerAffairs.com, ConsumerReports.org and the Better Business Bureau.

Online consumer reviews found on these pages suggest that complaints against pet insurers fall into categories similar to those of other P/C lines of business: claim delay, claim denial and partial or insufficient claim payments.

Some complaints may be attributed to the consumer’s misunderstanding of coverage and the policy terms and conditions. Restrictions, waiting periods, fee schedules, excluded preexisting, congenital and hereditary conditions are often not obvious to the consumer until after they have a loss. Companies can serve their policyholders better by providing clear and understandable information regarding:

- Whether congenital and hereditary conditions (such as hip dysplasia, heart defects, cataracts or diabetes) are covered.
- How reimbursement is calculated (cased on the actual vet bill, a benefit schedule or usual and customary rates).
- Whether the deductible is on a per-incident or annual basis.
- Whether there are limits or caps applied (per incident, per year, age or over the pet’s lifetime).
- Whether there is an annual contract that determines if anything diagnosed in the prior year of coverage would be considered a preexisting condition and excluded from coverage in subsequent policy terms.
- What conditions may be considered preexisting.
- How to appeal claim denials.
- Whether the vet is paid directly by the insurance carrier or the insured must pay the vet and be reimbursed by the carrier.

A Feb. 13, 2018, NAIC Consumer Alert⁷ lists other critical details that a consumer should know, including, but not limited to:

- Can I choose any veterinarian?

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• Does the policy cover annual wellness exams?
• Are prescriptions covered?
• Are spaying and neutering covered?
• How long does it take to pay a claim?
• Does the plan have end of life benefits?

California recognized the need for coverage disclosure. Assembly Bill No. 2056, which can be found in Appendix 2, requires insurers to disclose the basis or formula on which the insurer determines claim payments, the benefit schedule used, and the usual and customary fee limitation. Disclosures must be made within the policy and through a link on the main page of the insurer’s website. According to the *Los Angeles Times*, a 2016 report found that 37% of all pet insurance claims were denied in California. No commensurate figure for the U.S. could be found, but one could extrapolate similar numbers. The subject of the article was a nearly $13,000 claim that was denied, appealed and denied again. It was not until the *Los Angeles Times* stepped in to do an exposé that the claim was paid. In most cases, especially in emergency situations, the expense is incurred before the insured has an opportunity to check with the insurer regarding coverage. This is another point of contrast, with most other types of property coverage where an adjuster may conduct an appraisal before most expenses are incurred.

**REGULATORY CONCERNS**

Although pet insurance products have been around for many years, the demand for and insurers willing to offer the coverage have increased. The regulatory framework and reporting requirements may be less familiar to the more recent entrants to the market. Development of a model to place all carriers on a level playing field may benefit insurers and consumers. State insurance regulators have identified several concerns that might be served by development of a model act. Insurance regulation is in place to ensure consumer protection and includes requirements for licensure, reporting, policy procedures, marketing and sales. Market conduct activity is a concern for all insurance products, and the issues presented are not representative of the entire pet insurance industry.

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In 2013, the Washington State Office of the Insurance Commissioner (OIC) began monitoring a pet insurer due to suspected use of non-licensed producers to market and sell its pet insurance products. The Washington OIC launched a targeted market conduct examination on July 15, 2014. The examination was conducted to address concerns regarding: failure to disclose the legal company name in operations; use of non-licensed producers to market and sell pet insurance; use of the brand name, implying that it is an insurance company; use of non-filed or approved policy forms; and offering discounts not included in approved filings. These issues are exacerbated by the use of brand names and the changing landscape of insurer to branding entity relationships.

Market Conduct Concerns

Conducting Business in Legal Insurer Name

Marketing by brand name causes confusion not only for consumers, but also for employees of the agencies, third-party administrators (TPAs), and partners such as veterinary clinics and hospitals.

According to the Unfair Trade Practices Act (#880), “making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any insurer in the conduct of its insurance business, which is untrue, deceptive or misleading” is considered an unfair trade practice.

If consumers have difficulty identifying the underwriter, they may not know how to file a complaint with the state DOI. Branding entities may change underwriters or use multiple underwriters, making it difficult even for state insurance regulators to track the insurer with a duty to indemnify claims. Additionally,

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consumers may file complaints instead with the branding entity, agency or insurer directly. Review of various social media sites reveals a growing number of consumer complaints regarding claims handling and marketing practices. Due to confusion as to the direct underwriter, these complaints may never be effectively reported. Often, consumers have complaints regarding conditions or what is actually covered in the policy. The California bill addressed these issues by requiring insurers to provide certain disclosures including the policy exclusions and claim reimbursement methods to policyholders as well as post them on the insurer’s website. Without proper reporting, these issues do not get addressed with the underwriting carrier. Failure to maintain a complete record of all the complaints insurers receive since the date of its last examination is considered an unfair trade practice according to Model #880.

If a model act is drafted, it should address disclosure of the statutory insurance company to the consumer.

**Use of Nonlicensed Producers to Market and Sell Pet Insurance**

During the Washington OIC’s targeted market conduct exam, it was determined that a pet insurer used appointed agencies to market and sell its pet insurance policies. Both entities were licensed producers although they employed unlicensed, non-appointed call center representatives to solicit and sell policies to consumers.

Additional insurance departments have found that some pet insurance products are being marketed through unlicensed producers, including veterinarians. In some instances, veterinarians and their staff are incentivized to market specific products with potential for rewards like gift cards, products or even paid vacations. Use of non-licensed personnel for the marketing of insurance products creates a need for additional regulatory investigations and may result in insurer examination.

**Form and Filing Review and Oversight**

Pet insurance products are subject to Model #880 and filed with the state. Unfortunately, it has been found that some branding entities have marketed policy language and rates not filed with the state DOI. There are also concerns regarding premium waivers, unfiled discounts and satisfaction guarantees made when products are sold. Some pet insurance branding entities offer discounts and/or coupons through online
retail sites or flyers and business cards left in veterinarian offices, animal shelters and retail stores. Any discounts or coupons should be reported by the pet insurance carrier and filed with the state DOI.

Additionally, it has been found that pre-dispute arbitration clauses are being used in some pet insurance products. States may want to determine if that is appropriate for this personal line product.

As with many insurance products, consumers may not fully understand the products offered for sale to them. These policies can contain exclusions for coverage due to preexisting or congenital conditions. Treatment of preexisting conditions and how they are applied to the policy are of concern to state insurance regulators. Preexisting conditions should be thoroughly defined, including whether a condition found in one policy term would be excluded in future terms and if a relative condition could be excluded because it may have resulted from a preexisting condition. Coverage options may be added back through additional riders in some, but not all, instances. Plans may also have annual or lifetime limits for payment. The billing process varies by carrier and brand/agency/TPA. Consumers may either must pay out of pocket and be reimbursed or billing software may be set up for the insurer to pay the veterinarian directly.

**Lack of Pet Specific Product Data**

*Premium Data*

States may have difficulty measuring growth in their individual markets without a known resource such as the NAIC annual statement because pet insurance does not have its own line. Pet insurance products are to be reported under inland marine, which incorporates several miscellaneous coverages. This makes it difficult to measure the pet insurance market specifically. State insurance regulators may want to, therefore, explore determination of market share in a coordinated manner through the NAIC. As discussed above, this could be through a specific data call or modification to the NAIC annual financial statement.

*Complaint Data*

Complaint data may be difficult to identify for pet insurance, specifically as it is not always labeled as such in the NAIC state-based system complaint tracking database, the NAIC consumer information source
or individual state complaint tracking resources. The lack of data regarding complaint data specifically for pet insurance products could be partially remedied by modification to allow pet products to be easily identified in complaint databases. Additional concerns regarding complaints due to the use of brand names are outlined above.

**Reciprocal Producer Licensing**

Some states may grant a limited lines pet insurance producer license. If these producers apply to another state that does not have a limited lines pet insurance license, depending on the state reciprocity rules, the producer may be granted a full lines P/C producer license, limiting the producer to the authority provided by the resident state. For example, ID issues a resident limited lines producer license for pet insurance, however, WA does not offer this limited line. In a reciprocal licensing approach, WA would issue a non-resident producer P/C license to the ID resident, restricting this producer to the authority granted in ID. It should be noted that there is no way to reflect this license is restricted to pet insurance, and the national licensing database as well as the WA website will reflect the non-resident license issued as a P/C line of authority.

States should address with clarity the licensing obligations for the sale, solicitation and negotiation of this product and, if applicable in the individual state, the licensing obligations for claims adjustment. For states that permit limited line producer licenses, products will need to be filed that align with the authority permitted by the limited license. Producers will also require monitoring to make sure they are not selling homeowners or other products that exceed the limited line authority.

**RESOURCES**

http://www.naic.org/cipr_topics/topic_pet_insurance.htm
https://www.aspcapetinsurance.com/research-and-compare/pet-insurance-basics/pet-insurance-basics/
APPENDICES

Appendix 1: Glossary of Terms

**Chronic condition** means a condition that can be treated or managed, but not cured.

**Congenital anomaly or disorder** means a condition that is present from birth, whether inherited or caused by the environment, which may cause or otherwise contribute to illness or disease.

**Hereditary disorder** means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

**Pet insurance** means an individual or group insurance policy that provides coverage for veterinary expenses.

**Preexisting condition** means any condition for which a veterinarian provided medical advice, the pet received treatment for, or the pet displayed signs or symptoms consistent with the stated condition prior to the effective date of a pet insurance policy or during any waiting period.

**Veterinarian** means an individual who holds a valid license to practice veterinary medicine from the Veterinary Medical Board pursuant to Chapter 11 of Division 2 of the Business and Professions Code or other appropriate licensing entity in the jurisdiction in which he or she practices.

**Veterinary expenses** means the costs associated with medical advice, diagnosis, care or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian.

**Waiting or affiliation period** means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the policy can begin.

Source: California Assembly Bill No. 2056, Chapter 896.
Appendix 2: California Assembly Bill No. 2056, Chapter 896

An act to add Part 9 (commencing with Section 12880) to Division 2 of, the Insurance Code, relating to insurance.

[Approved by Governor September 30, 2014. Filed with Secretary of State September 30, 2014.]

legislative counsel’s digest
AB 2056, Dababneh. Insurance: pet insurance.

Existing law governs the business of insurance and authorizes the Insurance Commissioner to provide oversight over the insurance industry including, life and disability insurance, health insurance, workers’ compensation, and liability insurance. The commissioner is authorized to, among other things, conduct investigations and bring enforcement actions against insurers for violations of the laws governing the business of insurance.

This bill would regulate pet insurance policies that are marketed, issued, amended, renewed, or delivered, whether or not in California, to a California resident, on or after July 1, 2015, regardless of the situs of the contract or master group policyholder, or the jurisdiction in which the contract was issued or delivered. The bill would define certain terms and specify certain disclosures a pet insurer is required to make to consumers. The bill would also require an insurer transacting pet insurance in this state to disclose, among other things, whether the policy excludes coverage because of a preexisting condition, a hereditary disorder, a congenital anomaly, or a chronic condition, and would require that pet insurance policies have a free look cancellation period of not less than 30 days, as provided.

This bill would authorize the commissioner to hold a hearing to determine if an insurer is in violation of the provisions governing pet insurance and to assess a civil penalty, which is to be determined by the commissioner but not to exceed $5,000 for each violation, or $10,000 for a willful violation. The hearing would be required to be conducted pursuant to the Administrative Procedure Act, except as specified, and a person found to be in violation may have the proceedings reviewed by means of any remedy pursuant to a specified statute or the Administrative Procedure Act. The bill would authorize the commissioner to adopt reasonable rules and regulations, as necessary, in accordance with the Administrative Procedure Act in order to implement these requirements.

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The people of the State of California do enact as follows:

SECTION 1. Part 9 (commencing with Section 12880) is added to Division 2 of the Insurance Code, to read:

PART 9. PET INSURANCE

12880. For purposes of this part, the following definitions shall apply:

(a) “Chronic condition” means a condition that can be treated or managed, but not cured.
(b) “Congenital anomaly or disorder” means a condition that is present from birth, whether inherited or caused by the environment, which may cause or otherwise contribute to illness or disease.
(c) “Hereditary disorder” means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.
(d) “Pet insurance” means an individual or group insurance policy that provides coverage for veterinary expenses.
(e) “Preexisting condition” means any condition for which a veterinarian provided medical advice, the pet received treatment for, or the pet displayed signs or symptoms consistent with the stated condition prior to the effective date of a pet insurance policy or during any waiting period.
(f) “Veterinarian” means an individual who holds a valid license to practice veterinary medicine from the Veterinary Medical Board pursuant to Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code or other appropriate licensing entity in the jurisdiction in which he or she practices.
(g) “Veterinary expenses” means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian.
(h) “Waiting or affiliation period” means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the policy can begin.

12880.1. A policy of pet insurance that is marketed, issued, amended, renewed, or delivered, whether or not in California, to a California resident, on or after July 1, 2015, regardless of the situs of the contract or master group policyholder, or the jurisdiction in which the contract was issued or delivered, is subject to this part.

12880.2. (a) An insurer transacting pet insurance in California shall disclose all of the following to consumers:

(1) If the policy excludes coverage due to any of the following:

(A) A preexisting condition.
(B) A hereditary disorder.
(C) A congenital anomaly or disorder.
(D) A chronic condition.
(2) If the policy includes any other exclusion, the following statement: “Other exclusions may apply. Please refer to the exclusions section of the policy for more information.”

(3) Any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit.

(4) Whether the insurer reduces coverage or increases premiums based on the insured’s claim history.

(b) (1) If a pet insurer uses any of the terms in paragraph (1) of subdivision (a) in a policy of pet insurance, the insurer shall use the definition of those terms as set forth in Section 12880 and include the definition of the term in the policy. The pet insurer shall also make that definition available through a link on the main page of the insurer’s Internet Web site.

(2) Nothing in this subdivision or Section 12880 in any way prohibits or limits the types of exclusions pet insurers may use in their policies, nor does it require pet insurers to have any of the limitations or exclusions defined in Section 12880.

(c) A pet insurer shall clearly disclose a summary description of the basis or formula on which the insurer determines claim payments under a pet insurance policy within the policy and through a link on the main page of the insurer’s Internet Web site.

(d) A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall do both of the following:

(1) Clearly disclose the applicable benefit schedule in the policy.

(2) Disclose all benefit schedules used by the insurer under its pet insurance policies through a link on the main page of the insurer’s Internet Web site.

(e) A pet insurer that determines claim payments under a pet insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary service provider charges, shall do both of the following:

(1) Include a usual and customary fee limitation provision in the policy that clearly describes the insurer’s basis for determining usual and customary fees and how that basis is applied in calculating claim payments.

(2) Disclose the insurer’s basis for determining usual and customary fees through a link on the main page of the insurer’s Internet Web site.

(f) The insurer shall create a summary of all policy provisions required in subdivisions (a) through (e), inclusive, into a separate document titled “Insurer Disclosure of Important Policy Provisions.”

(g) The insurer shall post the “Insurer Disclosure of Important Policy Provisions” document required in subdivision (f) through a link on the main page of the insurer’s Internet Web site.
(h) (1) In connection with the issuance of a new pet insurance policy, the insurer shall provide the consumer with a copy of the “Insurer Disclosure of Important Policy Provisions” document required pursuant to subdivision (f) in at least 12-point type when it delivers the policy.

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(2) In addition, the pet insurance policy shall have clearly printed thereon or attached thereto a notice stating that, after receipt of the policy by the owner, the policy may be returned by the insured for cancellation by delivering it or mailing it to the insurer or to the agent through whom it was purchased.

(A) The period of time set forth by the insurer for return of the policy shall be clearly stated on the notice, and this free look period shall be not less than 30 days. The insured may return the policy to the insurer or the agent through whom the policy was purchased at any time during the free look period specified in the notice.

(B) The delivery or mailing of the policy by the insured pursuant to this paragraph shall void the policy from the beginning, and the parties shall be in the same position as if a policy or contract had not been issued.

(C) All premiums paid and any policy fee paid for the policy shall be refunded to the insured within 30 days from the date that the insurer is notified of the cancellation. However, if the insurer has paid any claim, or has advised the insured in writing that a claim will be paid, the 30-day free look right pursuant to this paragraph is inapplicable and instead the policy provisions relating to cancellation apply to any refund.

(i) The disclosures required in this section shall be in addition to any other disclosure requirements required by law or regulation.

12880.3. (a) A person who violates a provision of this part is liable to the state for a civil penalty to be determined by the commissioner, not to exceed five thousand dollars ($5,000) for each violation, or, if the violation was willful, a civil penalty not to exceed ten thousand dollars ($10,000) for each violation. The commissioner may establish the acts that constitute a distinct violation for purposes of this section. However, when the issuance, amendment, or servicing of a policy or endorsement is inadvertent, all of those acts constitute a single violation for purposes of this section.

(b) The penalty imposed by this section shall be imposed by and determined by the commissioner pursuant to Section 12880.4. The penalty imposed by this section is appealable by means of any remedy provided by Section 12940 or by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

12880.4. (a) Whenever the commissioner shall have reason to believe that a person has engaged or is engaging in this state in a violation of this article, and that a proceeding by the commissioner in respect thereto would be to the interest of the public, he or she shall issue and serve upon that person an order to show cause containing a statement of the charges in that respect, a statement of that person’s potential liability under this part, and a notice of a hearing thereon to be held at a time and place fixed therein, which shall not be less than 30 days after the service thereof, for the purpose of determining whether the commissioner should issue an order to that person to pay the penalty imposed by Section 12880.3 and to cease and desist those methods, acts, or practices, or any of them, that violate this article.
(b) If the charges or any of them are found to be justified, the commissioner shall issue and cause to be served upon that person an order requiring that person to pay the penalty imposed by Section 12880.3 and to cease and desist from engaging in those methods, acts, or practices found to be in violation of this part.

(c) The hearing shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), except that the hearings may be conducted by an administrative law judge in the administrative law bureau when the proceedings involve a common question of law or fact with another proceeding arising under other Insurance Code sections that may be conducted by administrative law bureau administrative law judges. The commissioner and the appointed administrative law judge shall have all the powers granted under the Administrative Procedure Act.

(d) The person shall be entitled to have the proceedings and the order reviewed by means of any remedy provided by Section 12940 or by the Administrative Procedure Act.

12880.5. The commissioner may adopt reasonable rules and regulations, as are necessary to administer this part, in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

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Appendix 3: Overview of Actuarial Science

Considering the ratemaking discussion in this paper, a few words about actuarial science may be helpful. Actuarial science is the discipline that applies mathematical and statistical methods to evaluate risk in insurance and other business endeavors. Actuaries are professionals who become experts in their field based upon years of education and experience.

Many universities have undergraduate and graduate degree programs in actuarial science. The actuarial profession is well-known for its rigorous professional examinations which must be passed to be recognized as a Fellow of the Society of Actuaries (FSA) or Fellow of the Casualty Actuarial Society (FCAS).

Actuarial science represents several interesting fields including; mathematics, probability theory, statistics, accounting, finance, economics, information technology, law and insurance.

In the U.S., there are several actuarial societies serving various functions:

- The Society of Actuaries (SOA)
- The Casualty Actuarial Society (CAS)
- The American Academy of Actuaries (AAA)
- The Actuarial Standards Board (ASB) (part of the AAA)

In the P/C insurance company arena, the most common functions that an actuary serves are ratemaking (also known as pricing) and loss reserving. Ratemaking represents the estimation of future costs, and thereby needed premium, for future policies; loss reserving represents the estimation of future claims payments for policies already written by the insurance entity. Such future claims payments represent an important liability for the insurer and also play an important role in the ratemaking process because future costs are estimated based on past costs along with inflation and other adjustments.

Most P/C actuaries work for an insurance company or reinsurance company, some work for a consulting or brokerage firm and others work for a state department of insurance, a college or university, a rating bureau, a modeling firm, or other type of entity.
The Catastrophe Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met in Orlando, FL, April 6, 2019. The following Working Group members participated: Mike Chaney, Chair (MS); David Altmaier, Vice Chair, represented by Virginia Christy and Susanne Murphy (FL); Jerry Workman (AL); Ken Allen (CA); George Bradner (CT); Kathleen Nakasone (HI); Erica Weyhenmeyer (IL); Heather Droge (KS); Warren Byrd (LA); James McCarthy (MA); Nour Benchaaboun and Joy Hatchette (MD); Angela Nelson (MO); Kristine Maurer (NJ); Fred McCarthy (NC); Cuc Nguyen (OK); Tashia Sizemore (OR); Sarah Neil (RI); Kendall Buchanan and Joe Cregan (SC); Lorrie Brouse (TN); Mark Worman (TX); and John Haworth (WA).

1. **Adopted its 2018 Fall National Meeting Minutes**

Mr. Byrd made a motion, seconded by Ms. Nelson, to adopt the Working Group’s Nov. 15, 2018, minutes (see NAIC Proceedings – Fall 2018, Property and Casualty Insurance (C) Committee, Attachment Three). The motion passed unanimously.

2. **Heard an Update Regarding Federal Legislation and the NFIP**

Brooke Stringer (NAIC) provided an update regarding federal legislation and the National Flood Insurance Program (NFIP). There have been numerous short-term extensions and a few lapses of the NFIP since the NFIP first expired in September 2017. The latest short-term extension expires May 31, 2019, and the House has proposed another extension through Sept. 30, 2019.

During the past session of the U.S. Congress, Republicans in the U.S. House of Representatives passed a five-year reauthorization and reform package that included legislation to facilitate the growth of a state-regulated private flood insurance market. The U.S. Senate never acted on the House bill, nor did it consider any of the various Senate proposals.

Lawmakers have been divided over a variety of issues, including the role of the private flood insurance market, claims processing reforms and addressing affordability challenges, among others.

U.S. Sen. Jeb Hensarling (R-TX), former chairman of the House Committee on Financial Services, was a staunch NFIP opponent and sought significant reforms that certain coastal Senate Republicans had concerns with, which is one of the reasons a more robust package never moved forward in the Senate. Current Chairwoman Maxine Waters (D-CA) is developing a far different reauthorization bill.

Chairwoman Waters has released her draft reauthorization legislation. As part of the draft, she proposes: 1) an extension of the NFIP until Sept. 30, 2024; 2) cancellation of the NFIP’s debt and authorization for NFIP premiums to be paid monthly; 3) establishment of a state loan fund and a mitigation program; 4) a reduction of fees and surcharges; and 5) a five-year demonstration program for means tested assistance. She released separate proposals for improvements to floodplain mapping, mitigation and management, as well as a proposal seeking to improve the claims process.

It is unclear what a specific bill will look like in the Senate. Chairwoman Waters’ willingness to collaborate, combined with strong support from coastal lawmakers in the Senate, may create an opportunity for bipartisan action on a long-term reauthorization.

The Federal Emergency Management Agency (FEMA) recently announced a new underwriting system, Risk Rating 2.0, which will go into effect in 2020. This system overlays the mapping system and provides more precise underwriting of flood risks. Consumers will be notified of any new rates by April 1, 2020, and the rates will formally go into effect in October 2020.
The federal Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters) requires lenders to accept private flood insurance policies that meet certain requirements, just as they would an NFIP policy, to satisfy the mandatory purchase requirement. After six years of deliberation, the federal banking regulators have finalized their rule, which will take effect July 1, 2019. The final rule requires insurers to certify that their private flood insurance policies meet the necessary requirements set forth in Biggert-Waters in order for banks to be required to accept such policies. It would also provide banks the option to accept private flood insurance policies that did not meet the mandatory acceptance requirements set forth in Biggert-Waters, subject to certain conditions. Final action on this rule may help to facilitate progress on the NFIP reauthorization legislation by removing one obstacle that has prevented Congress from reaching a consensus on a broader long-term reauthorization.

Banks’ “mandatory” acceptance (insurer self-certification) allows lenders to rely on an insurer self-certification that the policy meets the federal definition if the policy or endorsement states, “The policy meets the definition of private flood insurance contained in 42 U.S.C. § 4102a(b)(7) and the corresponding regulation.” The property/casualty (P/C) trade associations are thinking this through to see if they could layer this with a conforming conditions clause.

Banks’ “discretionary” acceptance maintains the lenders ability to accept private flood insurance that does not meet the federal definition on a discretionary basis, so long as the policy provides sufficient protection to the loan in accordance with the lender’s general safety and soundness requirements. Additionally, the lender would have to document its conclusion in writing for its federal regulator regarding sufficiency of the protection. The P/C trade associations are exploring the practicality of this option, given that banks may be reluctant to do this.

In the NAIC’s 2016 comment letter to banking regulators regarding residential surplus lines insurance policies, the NAIC requested they state that personal lines residential surplus lines insurers can be accepted by lenders. While this is not put in the rule, the preamble states: “The Agencies confirm that policies issued by surplus lines insurers for noncommercial properties already are covered in the definition of ‘private flood insurance’ as policies that are issued by insurance companies that are ‘otherwise approved to engage in the business of insurance by the insurance regulator of the State or jurisdiction in which the property to be insured is located.’ Therefore, the Agencies do not believe it is necessary to amend the proposed regulatory text to address this issue.”

The definition of “federal private flood” has specific requirements to meet the mandatory purchase requirement, such as the amount of time to file a lawsuit/cancellation provisions, etc., that may not be consistent with state law requirements.

Ms. Stringer said the banking regulators did not take the industry coalition’s proposal about accepting certain state law requirements if they are for longer periods than the federal requirements. On this issue, the banking agencies are stuck with what was in the Biggert-Waters definition. The Government Relations (EX) Leadership Council is exploring a legislative path forward with Congress.

The banking rule does not address continuous coverage, as the banking regulators believed that was an issue that FEMA should address. FEMA has told the NAIC to go to Congress to fix this, which the NAIC is doing.

Regarding mutual aid societies, the NAIC had asked that the rule add an additional requirement requiring the entity to demonstrate that it meets a specified exemption to a state’s insurance code or licensing rules. The banking agencies said they do not think the rule would interfere with insurance regulators’ ability to prohibit such coverage in their state, noting that many states may not have explicit rules addressing mutual aid societies, which could result in them being inadvertently prohibited.

3. **Received an Update Regarding the Transparency and Readability of Consumer Information (C) Working Group**

Ms. Nelson said the Transparency and Readability of Consumer Information (C) Working Group received a referral from the Catastrophe Insurance (C) Working Group to draft a document for consumers to use following a catastrophic event. The document addresses basic information regarding what to do if their home or property is damaged due to a disaster; information regarding what to do immediately following a disaster; reporting an insurance claim; the type of adjusters and their roles; working with the insurance adjuster; additional living expenses; settling an insurance claim; and rebuilding, repairing and replacing following a disaster.
The Working Group is planning on this document being a written document to be used to provide consumers with information following a catastrophic event, as well as providing modules to be used on a website. The Working Group has shared this information with the NAIC Communications Division, which is doing a campaign on flood, and this information is helpful to consumers. The Missouri Department of Insurance created a graphical handout, which the Working Group will use in its final interaction.

The Working Group met twice in February and once in March. The Working Group plans to complete the written document as soon as possible, so it will be available to state insurance departments during the storm season, and will meet via conference call every two weeks until the document is complete. The Working Group will then work on information that can be posted on a website to allow consumers to go directly to a section they are interested in reading.

Ms. Nelson reminded the Catastrophe Insurance (C) Working Group members that the Transparency and Readability of Consumer Information (C) Working Group’s web page includes a document on flood insurance basics, as well as some graphics illustrating flood facts. She said these items can be used with social media.

4. Adopted its Drafting Group Reports

   a. NAIC State Disaster Plan Drafting Group

Mr. Workman provided a report for the NAIC State Disaster Response Plan drafting group. The Working Group formed a drafting group to update the NAIC State Disaster Response Plan. The drafting group has been meeting on a regular basis to accomplish this task.

The response plan document provides a template for a state insurance department to use when assisting consumers following a disaster. The document will also provide guidance to insurers and other licensees in advance of a disaster. This document details how a state insurance department can work with other agencies to assist consumers, including federal agencies; state or local agencies; the NAIC; and other state insurance departments. The document provides information regarding preparation, major incident management functions, examples of disaster/incident management teams, and the roles and responsibilities of the various team members.

The response plan is scalable. Individual state insurance departments may not have staff to fill all the suggested team members and teams; therefore, in smaller states, the same person may perform multiple roles. The response plan also provides information regarding NAIC resources available to state insurance departments following a disaster.

The drafting group plans on meeting following the national meeting and hopes to have something to the Working Group for review sometime in May.

   b. Private Flood Insurance Drafting Group

Mr. Byrd provided a report for the private flood insurance drafting group. The group was charged with drafting a document regarding state regulatory practices for private flood insurance. While some states have private flood insurance available in their states, this is not true in all states.

The purpose of this document is to provide state insurance regulators with regulatory best practices concerning the development of the expanding private insurance market for residential flood insurance. The best practices focus on the primary aspects of state insurance regulation: insurer solvency; well-functioning and competitive market; consumer services and information; and product availability and standardization. The draft covers topics such as federal action; state action; ways a state insurance department can facilitate a well-functioning private flood insurance market; outreach and education; steps already taken by some states; and addressing the barriers to the development of a private flood insurance market.

The current draft of this document has been updated and incorporates changes based on comments received from members of the drafting group following the first draft of the document. The drafting group will meet via conference call following the Spring National Meeting to discuss finalizing the document and its next steps. The goal of the drafting group is to refer this document to the Working Group for comments following the call and expose the document for comment as soon as possible.
Commissioner Chaney asked what Louisiana and Alabama are seeing regarding the take-up rates on private flood insurance.

Mr. Byrd said Louisiana just received an update from FEMA regarding the take-up rate on NFIP policies. He said there has not been an increase in the take-up rates.

Mr. Workman said the take-up rates in Alabama are low. He said it is going to require continuous education to change the paradigm and thinking of policyholders regarding insurance and mitigation. The mindset needs to change to get consumers to think in terms of preparedness. He said he is seeing some change at the federal level, as there is more of a focus on preparedness. A large component of this is consumer education.

Mr. Byrd said Commissioner James J. Donelon (LA) always does storm tours in advance of hurricane season and emphasizes the need for flood insurance. This is being done currently in Louisiana.

Mr. Byrd made a motion, seconded by Mr. Workman, to adopt the drafting group reports. The motion passed unanimously.

5. Heard a Presentation from NAMIC, the RAA and the WSIA Regarding Private Flood Insurance

Jon Bergner (National Association of Mutual Insurance Companies—NAMIC) said the NFIP has already received 10 short-term extensions and will likely get another short-term extension in May. He said the NFIP is making some positive strides in purchasing reinsurance and fostering the development of the private market. NAMIC believes fostering the private flood insurance market is what needs to be done, as this will provide more coverage options for consumers.

Mr. Bergner said several things—including the NFIP’s elimination of the non-compete clause for write-your-own (WYO) insurers, the joint banking rules and the NFIP’s implementation of a new underwriting program that will tie NFIP premiums more closely to a risk policyholders are facing—are positive steps to laying the groundwork for the private market to continue to develop. These things will help to address the inadequacy of rates within the NFIP, noting that NAMIC believes these are necessary steps toward fostering competition and choice in the market.

Mr. Bergner said the private sector understands flood risk better than ever before, and NAMIC believes this will lead to innovation and better options for consumers. NAMIC believes focusing on pre-disaster mitigation is key as the frequency and intensity of storms increase. The realities of flood risk remain a challenge regarding items such as risk concentration and adverse selection. NAMIC believes the NFIP is going to remain a necessity.

Mr. Bergner said the subsidization of rates over the long-term has led to development in flood-prone areas. He said issues regarding availability and affordability are going to be key. NAMIC cautioned against attempting to force the development of the private flood insurance market, as it could create unnecessary barriers to entry. He said this can be seen by prescriptively mandating how and what type of policies insurers are being required to offer. He said NAMIC strongly encourages state insurance regulators to focus on streamlining state law with federal law and encourages state insurance regulators to work with their state legislatures to focus on the right things.

Ms. Nelson said Missouri has a renter’s product that was recently introduced that is an all-perils form. She asked if there is any interest or appetite or evolution insurers might move to. Mr. Bergner said NAMIC has a significant subset of its members that are exploring how they could write private flood insurance and if they are going to be able to write private flood insurance. He said all-risk policies are being considered; however, he is unsure of the overall direction.

Commissioner Chaney asked Mr. Bergner to expand on rates being actuarially sound and whether this should happen all at once or over a certain period of time. Mr. Bergner said NAMIC has significant concerns over what being “actuarially sound” means, as well as a dollar amount. He does not believe this will happen overnight; however, the further things can move in that direction would be best—at the least, signaling to policyholders what the actuarially sound rate would be and letting them know what is being charged.

Dennis Burke (Reinsurance Association of America—RAA) said Risk Rating 2.0 is an administrative process, and if Congress passes an NFIP reauthorization that continues the path set forth in the federal Homeowner Flood Insurance Affordability Act of 2014, they will not get to rate adequacy instantaneously. He encouraged Working Group members to read the new federal...
banking regulation, which includes mandatory flood provisions that banks and other lenders must comply with and are required to meet. As such, insurers and regulators need to make it easy for banks to meet their compliance requirements.

Mr. Burke said there is a compliance aid, which was referenced by Ms. Stringer as “self-certification.” He said it is not quite a self-certification, because it needs to be in the policy or as an endorsement. Mr. Burke suggested finding a way to approve this automatically to make the form process easy. He said state insurance regulators can inform their forms staff to approve the form if the insurer indicates the policy is equal to or greater than the NFIP policy form. Mr. Burke said, for admitted rates, the Florida-style rate regulation relaxation continues to be considered. He said the NFIP is currently the rate regulator in this market. He said he does not anticipate there would be anyone willing to buy a private flood insurance policy that provides worse coverage or more expensive coverage than the NFIP policy.

Mr. Burke said when he looks at the role of the state insurance regulators, he suggests they watch the market closely and provide consumer protection. He said it is important that the private flood insurance market is acting fairly and that insurers are solvent. He said because flood is so risk-specific, it is important not to over-regulate the underwriting of flood insurance. He suggested making banks’ compliance easier; they need to know who is an admitted insurer and who is a surplus lines insurer that has been approved, and they need to know which states have approved the surplus lines insurer policies. Mr. Burke suggested state insurance regulators find a place on their website regarding flood and provide a bank compliance link. He said it is important to get the provision into federal law regarding allowing the private flood insurance market policies to qualify in the area of continuous coverage, so consumers are not harmed by purchasing flood insurance in the private market.

Keri Kish (Wholesale and Specialty Insurance Association—WSIA) said she agrees with both Mr. Burke and Mr. Bergner regarding their comments. She said there are some things the surplus lines industry can do some things to help state insurance regulators. Ms. Kish said banks are generally familiar with surplus lines; however, it might be beneficial for the WSIA to help explain some of the language used in Biggert-Waters and the federal regulations that do not mirror or match what is in a state’s codes. She said some of the states have listings for surplus lines insurers they find ineligible to continue to do business in a state. She said this is something a state insurance department might want to reference. She said it is important in the surplus lines industry to remind the banks that they can check with insurer rating organizations to see an insurer’s rating. Ms. Kish said the WSIA would help support the states in any legislative activity regarding surplus lines.

Mr. Byrd said state insurance regulators look at whether a rate is excessive, adequate, or unfairly discriminatory. He said the NFIP rates are a subsidized rate and asked how insurers are dealing with rates for private flood insurance, so they are not inadequate.

Mr. Burke said a Milliman reports showed that 70% of Louisiana residents could obtain better prices for flood insurance in the private market. He said NFIP rates are 1 percentage point higher in Florida, and even higher in Texas, New York and New Jersey. Mr. Burke said there are opportunities, noting that there are “rate plus” sections of the NFIP rating structure and there are “rate minus” sections that are the grandfathered heavily subsidized pieces. He said the RAA is working with FEMA to help it package its own risk, noting that private insurers will be thinking about the same thing.

Mr. Bergner said the NFIP claims 80% of its policies are not subsidized.

Commissioner Chaney asked what the RAA is considering regarding climate change and reinsurance. Mr. Burke said the RAA’s members are looking at climate change the way they look at everything else. He said insurance is a science-based industry and the RAA uses science to help evaluate its pricing; however, the RAA is only looking at rates for approximately a year out. He said it is difficult, if not impossible, to determine the variability for individual risks for short periods of time.

Ms. Bach (United Policyholders—UP) asked if the states have the resources, such as staffing and authority, they need to review the private flood insurance forms being received. She said UP is looking to help consumers purchase flood insurance and said the NFIP policy form is straightforward. Ms. Bach said UP is concerned that if there is no consistent review of the private flood insurance policy forms, it will be difficult to help consumers know what policy they should purchase.

Mr. Byrd said Louisiana has enough staff to review the incoming private flood insurance policy forms. He said Louisiana also has an active consumer deputy commissioner and public information officer.

Ms. Bach said UP is concerned that some states do not have the authority to review forms from surplus lines insurers.
Mr. Bradner said private flood insurance policies from insurers would mirror the NFIP policy. Insurers will be providing state insurance regulators with statements indicating the private flood insurance policy would provide coverage equal to or broader than an NFIP policy. He said he would like the NFIP policy to be written to be more understandable.

Mr. Byrd said he believes the Insurance Services Organization (ISO) has a private flood insurance policy form. Commissioner Chaney said he believes the American Association of Insurance Services (AAIS) has one, as well.

Birny Birnbaum (Center for Economic Justice—CEJ) said the CEJ wants to alert state insurance regulators to issues raised by the recently enacted rule by federal banking regulators regarding acceptance of private flood insurance. The CEJ believes this rule—intended to promote private market provision of flood insurance by mandating lender acceptance of certain private flood insurance policies in lieu of a NFIP policy—challenges state insurance regulators’ authority regarding consumer protection in several ways.

First, Mr. Birnbaum said the rule sets requirements for a private flood insurance policy that a lender must accept. These requirements are generally that the policy mirrors a standard NFIP policy. However, the rule provides a “compliance aid” for lenders and, as long as the private flood policy contains the statement, “This policy meets the definition of private flood insurance contained in 42 U.S.C. § 4012a(b)(7) and the corresponding regulation,” the lender may accept the policy as meeting the definition of private flood insurance without further review. The rule is silent regarding where or how this statement is disclosed to the lender and to the consumer. The rule is also silent regarding oversight to ensure that policies with this statement, in fact, meet the requirements of the rule. Consequently, one issue for state insurance regulators is review of policies—in both the admitted and non-admitted markets—to ensure the accuracy of the compliance aid statement.

Second, Mr. Birnbaum said the rule permits discretionary acceptance of private flood policies that do not meet the requirements of mandatory acceptance private flood policies if the policy provides necessary coverage amounts; is issued by a licensed, admitted or otherwise approved insurer; and covers both the mortgagor and mortgagee as payees. Clearly, such policies will be subject state insurance regulatory review and, in some cases, approval. Because these policies will differ from the mandatory acceptance policies, there will be a need for some type of consumer disclosure to alert the consumer to what she or he is purchasing.

Third, Mr. Birnbaum said the rule permits a lender to accept “a plan issued by a mutual aid society” in satisfaction of the floor insurance purchase requirements if the plan provides the necessary coverage amounts, covers the mortgagor and mortgagee and provides sufficient protection of the designated loan . . . and the FDIC-supervised institution documents it conclusion regarding the sufficiency of the protection of the loan in writing.”

In the commentary accompanying the final regulation, Mr. Birnbaum said the banking regulators explained that although the agencies received comments in support of the proposed mutual aid provisions, several commenters asserted that regulated lending institutions would find it difficult to determine whether an organization has “a demonstrated history of fulfilling the terms of agreements to cover losses to members’ property caused by flooding,” because there is no established source for that information.

Mr. Birnbaum said the agencies believe that a demonstrated history requirement is necessary for reasons of safety and soundness, namely, to ensure that property securing a loan extended by a regulated lending institution is adequately protected. Moreover, the agencies believe that it will be feasible for regulated lending institutions to obtain sufficient information regarding an organization’s history in covering losses to members’ property caused by flooding. Regulated lending institutions may make determinations based on factors such as their experiences with mutual aid societies or examples the mutual aid society provides of previously covered losses. Therefore, the agencies are retaining this prong of the definition in the final rule.

Mr. Birnbaum said while it is unclear what role state insurance regulators might have on the issue of mutual aid societies demonstrating a history of fulfilling agreements to cover losses, it makes sense that state insurance regulators can provide recommendations to lenders because state insurance regulators have expertise in this area, while lenders do not.

Having no further business, the Catastrophe Insurance (C) Working Group adjourned.
Draft Pending Adoption

Attachment Three
Property and Casualty Insurance (C) Committee
4/8/19

Draft: 4/15/19

Terrorism Insurance Implementation (C) Working Group
Orlando, Florida
April 7, 2019

The Terrorism Insurance Implementation (C) Working Group of the Property and Casualty Insurance (C) Committee met in Orlando, FL, April 7, 2019. The following Working Group members participated: Stephen Doody, Chair (NY); Michael Ricker (AK); Ken Allen and Susan Stapp (CA); George Bradner (CT); Sean O’Donnell (DC); Virginia Christy (FL); Judy Mottar (IL); Heather Droge (KS); Angela Nelson (MO); Fred Fuller (NC); Mark McGill (NJ); Cuc Nguyen (OK); Rachel Chester (RI); J’ne Byckovski and Mark Worman (TX); Rebecca Nichols (VA); and David Provost (VT). Also participating was: Michael McKenney (PA).

1. **Discussed Reauthorization of TRIA**

Brooke Stringer (NAIC) said the federal Terrorism Risk Insurance Act (TRIA) is set to expire Dec. 31, 2020, and the U.S. Congress will begin work on a reauthorization/reform bill in the 2019 session. She said although TRIA was created as a temporary program in 2002, it has been reauthorized on a bipartisan basis three times and is likely to be extended again. She said the NAIC has supported TRIA since its inception, as well as its subsequent reauthorizations, and the industry also views this as a key legislative priority.

Ms. Stringer said congressional hearings are expected over the next year evaluating how TRIA has worked, how it has affected various stakeholders, and what the private market’s current capacity is to provide terrorism insurance. She noted that each reauthorization has made some changes, and there will likely be a push to have more risk assumed by private insurers and reinsurers. She also said U.S. Rep. Maxine Waters (D-CA), the current chair of the U.S. House of Representatives’ Committee on Financial Services, is supportive of an extension of TRIA, which makes passage in the House easier than previous Congresses. The U.S. Senate has also been supportive of TRIA and will likely consider potential reforms.

Ms. Stringer said the NAIC has approved the following policy statement concerning TRIA reauthorization:

**NAIC Policy for Terrorism Risk Insurance Act (TRIA) Reauthorization**

The NAIC supports a long-term reauthorization of the Terrorism Risk Insurance Program of seven to 10 years as state insurance regulators have not seen evidence to suggest that the insurance marketplace is capable of voluntarily taking on a substantial portion of the risk of terrorist attacks. We believe the presence of a federal partnership with private insurers has provided a measure of security and certainty to the broader economy, and it has ensured widespread availability of property and casualty insurance for terrorism risks.

Robert W. Woody (American Property Casualty Insurance Association—APCIA) agreed with the political prospects mentioned by Ms. Stringer. He said the APCIA has been meeting with congressional committees on their priorities. He said the APCIA has stressed that a lapse in the program, such as what happened in 2014, would result in chaos. Insurers will begin to issue renewals later this year that do not expire until after 2020. The APCIA desires as long of a reauthorization as possible, preferably at least seven to 10 years. Mr. Woody also said the APCIA does not want to see a change to co- pays, deductibles or the program trigger. The federal mandate to make coverage available is acceptable to the industry due to the backstop, but the backstop becomes more remote when the numbers have moved up.

Mr. Woody said workers’ compensation insurers worry that they could experience an event that is big for the industry but not big enough to trigger the program. He said if the triggers were to continue to rise, there is a chance that insurers could begin to pull out of the market, but that has not occurred in the past. He said state insurance regulators should look at the terrorism data to see if changes to the triggers would affect insolvency.

Mr. Woody said cyber will be an important issue in reauthorization, such as whether the current program covers cyber terrorism adequately. He said many cyber policies are written under professional liability, and this is not a TRIA-covered line of business. He also noted that the definition for “act of terrorism” in TRIA may not currently cover cyber. He said the current method of a post-funding mechanism is preferred over a pre-funding mechanism.
Mr. Woody said the APCIA may raise issues over the certification process due to the U.S. Department of the Treasury (Treasury Department) not making a determination on the Boston Marathon bombing. He said policies that have exclusions for certified acts of terrorism are dependent on whether the Treasury Department certifies the act. He said insurers would like to see a timeline and certainty when it comes to the certification of acts of terrorism.

Mr. Woody urged state insurance regulators to contact congressional delegations to express support for the reauthorization of TRIA. He also said the U.S. Government Accountability Office (GAO) is beginning work on a study looking at the need for TRIA.

Mr. Doody noted that state insurance regulators will be meeting with their congressional delegations at the upcoming NAIC All Commissioners DC Fly-in, where they will discuss TRIA issues. He also said consumers are burdened when a determination is not made on the possible certification of events. Consumers are then waiting for insurers to know if their claim will be paid. Mr. Doody said insurers should pay the claim on the policy and then later seek to recoup if certification is obtained in the future. Mr. Woody said he wants Treasury to provide information more quickly on whether an event is certified so that insurers can then move forward.

Mr. Woody said the APCIA would like the Treasury Department to provide information more quickly on whether an event is certified, so insurers can then move forward.

Jonathan Bergner (National Association of Mutual Insurance Companies—NAMIC) said certification has to do with contract language, which affects whether policyholders are covered. Mr. Doody said consumers are the ones who ultimately suffer.

Mr. Bergner agreed with the APCIA’s comments with respect to prospects for congressional reauthorization. He said some of the Senate pushback is institutional, and there is an automatic tendency to change the numbers in the program because they have been changed in the past. He said the current numbers in the program are about where they should be because taxpayers are protected, and the market is robust and working well.

Mr. Bergner said Congress cares about where state insurance regulators stand on the issue of reauthorization. He said NAMIC recently released a white paper on the program that will be distributed to state insurance regulators. He also noted that the cyber question will remain, but certification is hard enough already, so it is unlikely that there will be a definitive issue related to cyber coverages.

Mr. McKenney said he had heard from reinsurers that they do not want the program reauthorized, as there is capacity for reinsurers to provide the backstop.

Mr. Bergner said NAMIC represents a lot of smaller insurers, and adjustments to the numbers provide difficulties to those companies in writing the business. He said the industry can cover another 9/11 with current capital, but covering additional events after that would be difficult.

Scott Williamson (Reinsurance Association of America—RAA) said the RAA supports the reauthorization of TRIA for the reasons already described by the APCIA and NAMIC. He said there is a growing appetite for terrorism risk in the reinsurance community and there is robust capacity, but it is within the current structure of the existing program. The RAA continues to support a long-term reauthorization of TRIA. He said the current program cap of $100 billion has not changed with inflation, so the industry continues to take on a greater share of risk.

2. Discussed Workers’ Compensation Data Related to Terrorism Risk Insurance

Aaron Brandenburg (NAIC) reported on terrorism risk insurance data concerning workers’ compensation. He said data for the workers’ compensation portion of the data call was received from the National Council on Compensation Insurance (NCCI) and independent bureaus for the 47 non-monopolistic states. Data for 2016 was due to state insurance regulators by March 1, 2019.

The percentage of workers’ compensation policies that have an explicit terrorism charge has fallen slightly, from a little more than 84% in 2011 to about 82.6% in 2016. Delaware, Minnesota, New Jersey, New York, Pennsylvania and Wisconsin had
more than 90% of the policies with a terrorism charge. Overall, the Northeast Zone had the highest percentage of workers’ compensation policies with an explicit charge for terrorism risk.

The analysis next looked at the percentage of the terrorism premium as compared to the total earned premium for policies indicating an explicit terrorism charge. This percentage fell slightly, from about 1.4% in 2011 to 1.2% in 2016. The District of Columbia had the highest percentage, with more than 9% of the premium being a terrorism charge. This percentage has fallen slightly since 2015. The Northeast Zone had the highest percentage of terrorism premium compared to the total earned premium for policies indicating an explicit terrorism charge.

The average terrorism premium per policy has risen slightly, from $171 in 2011 to $184 in 2016. The average terrorism premium when there is an explicit charge rose from $210 in 2011 to $222 in 2016. The highest average terrorism premium was in the District of Columbia, followed by New York, Illinois, Maryland, New Jersey, Virginia and Texas. The Northeast Zone had the highest average terrorism premium in the time period 2011–2016.

When looking at payroll categories, only the lowest payroll category had fewer than 89% of policies with an explicit terrorism charge. The terrorism premium moved up substantially as the payroll category grew higher. Terrorism premium for insureds with a payroll category greater than $5 million experienced a drop in average premium of nearly 10% from 2011 to 2016.

Ms. Nelson asked whether the states could receive the underlying data within the report. Mr. Brandenburg said the data could be provided to the states.

Ms. Byckovski asked for a listing of which states belong in which zones within the report. Mr. Brandenburg said he would supply this list.

3. Heard a Report on the 2019 Terrorism Risk Insurance Data Call

Mr. Doody reported that the state insurance regulator and Treasury Department/Federal Insurance Office (FIO) joint data call was officially announced and posted on the respective websites on April 1. He said the same data set is due to both entities May 15, and additional information can be found on the NAIC and FIO websites.

Mr. Doody said ZIP code-level data was required to be submitted on the State Property Supplement (Supplement) by Sept. 30, 2018. He said the states have not been able to use that data due to its poor quality, and the industry has communicated the difficulty in gathering and reporting that data. Mr. Doody said state insurance regulators have held a conference call with interested parties in order to understand whether a pared-down version of the data template would be able to be submitted. He said the states hope to formulate a final version of the template soon and will communicate additional information on the Supplement soon.

Having no further business, the Terrorism Insurance Implementation (C) Working Group adjourned.
The Transparency and Readability of Consumer Information (C) Working Group of the Property and Casualty Insurance (C) Committee conducted an e-vote that concluded April 4, 2019. The following Working Group members participated: Angela Nelson, Chair (MO); Jerry Workman (AL); Ken Allen (CA); Bobbie Baca (CO); George Bradner (CT); Reid McClintock (IL); Heather Droge (KS); Ron Henderson (LA); Joy Hatchette (MD); Kathy Shortt (NC); Chris Aufenthie (ND); and Brian Fordham (OR)

1. **Adopted its March 18, Feb. 25 and Feb. 13 Minutes**

The Working Group conducted an e-vote to consider adoption of its interim minutes. The motion passed, with a majority of Working Group members voting in favor of adopting the March 18 (Attachment Four-A), Feb. 25 (Attachment Four-B) and Feb. 13 (Attachment Four-C) minutes.

Having no further business, the Transparency and Readability of Consumer Information (C) Working Group adjourned.
Draft: 4/1/19

The Transparency and Readability of Consumer Information (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call March 18, 2019. The following Working Group members participated: Angela Nelson, Chair (MO); Jerry Workman (AL); Bobbie Baca and Tracy Garceau (CO); Reid McClintock (IL); Heather Droge (KS); Joy Hatchette (MD); Chris Aufenthie (ND); Jana Jarrett (OH); and Marianne Baker (TX). Also participating were: Renee Campbell (MI); and Bruce Vario (UT).

1. Discussed the Consumer Claims Document

Ms. Nelson said she reviewed and reorganized the material in the consumer claims document.

Ms. Cude (University of Georgia) said there is merit in trying to organize the document; however, the Working Group needs to remember not to assume consumers will start reading at page 1 of the document and then continue to read the document from beginning to the end. She said the Working Group should assume the consumer is looking for the question they want answered and then read the answer.

Lisa Brown (American Property Casualty Insurance Association—APCIA) suggested changing the word “booklet” to “tool” in the first section of the document, “A major disaster has hit my area and my home or personal property are damaged. What should I do?” section.

Ms. Baker suggested changing the words, “is designed” to “can help you”. The sentence will be changed to read, “This tool can help you understand what to do after a natural disaster has occurred… claims process.”

Ms. Baker suggested removing the word “always” in the sentence, “Always remember that your state department of insurance is always available to provide assistance and answer any questions you may have — free of charge.” The sentence now reads, “Remember that your state department of insurance is available to provide assistance and answer any questions you may have — free of charge.” This sentence is in the section, “A major disaster has hit my area and my home or personal property are damaged. What should I do?”

Ken Klein (California Western School of Law) said the document is missing the topic of debris removal. He said this is a major topic in a community where multiple losses have occurred. He said there is also no discussion regarding what homeowners may need to do to make their property secure to their neighbors. He said, for instance, things such as controlling slopes for people that live downhill or fencing off a pile of toxin that is now sitting on a homeowner’s property.

Ms. Nelson said, while debris removal is an important consideration, the Working Group might want to consider using a “breadcrumb” to provide resources if this is an issue.

Mr. Klein said, as to debris removal in particular, there are two things that are not insignificant: 1) oftentimes, the debris following a disaster is toxic and needs to be disposed of differently; and 2) if there is a public debris removal program put in place, if a homeowner does the debris removal themselves, it often reduces the resources available to a homeowner to rebuild.

Ms. Nelson said Missouri’s experience has shown differences in the ways public debris removal works. She said she is hesitant to put information regarding debris removal in this document, as it is a countrywide document, and there are many variations of debris removal in each state or locality.

Mr. Workman said following the tornadoes experienced in 2011, debris removal was a difficult subject.

Ms. Cude asked if there is going to be a hardcopy of the document or if it would all be online. Ms. Nelson said when the state insurance departments are doing outreach following a disaster, they want to get information to the consumers in an electronic fashion; however, the departments still do in-person claims counseling events where they would want to hand out physical copies.
Ms. Cude asked if someone would like to print the document, if they could print various sections rather than the entire document. Ms. Nelson said it is possible to have the document formatted this way once the Working Group has completed its work.

Ms. Cude asked if the document is meant to be a resource for the states to build their own documents or if it would just be an NAIC document. Ms. Nelson said the NAIC would make this available for consumers; however, a state can customize it for use if they would like. Ms. Cude said an online document would look different from a hardcopy document.

The Working Group discussed “The Basics” section. Within “The Basics” section there is a subsection, “A disaster has hit my area and my home has been damaged. I’ve made sure my family is safe. What should I do next?” Ms. Brown said she has an issue with the second bullet point where it tells homeowners that if everything appears safe, they can inspect their home. She suggested deleting this bullet point. The Working Group agreed, and the bullet point, “If everything appears safe, you can inspect your home,” will be deleted.

Ms. Baker suggested changing the second bullet point, “When inspecting your home, clean up things like broken glass and sharp objects,” noting that she is unsure whether the sentence is referring to glass or sharp objects inside or outside the home.

Ms. Nelson suggested changing the language to read, “When inspecting your home, check for things like broken glass and sharp objects and remove them before you enter your home” to read, “When inspecting your home, check for things like broken glass and sharp objects and remove them.” The Working Group agreed, and this bullet point will be changed.

Ms. Baker said homeowners might not know what structural damage to make note of, because they might not know the indicators of all structural damage. The Working Group agreed to combine the last two bullet points to read, “Take photos or videos of the damaged areas and personal property. You can also make notes about what you see.”

Ms. Baker suggested adding wording regarding taking photos and videos to the next subsection, “My Family and I were evacuated from our home. When can we go home?” Ms. Nelson is going to add a cross-reference to this section.

Ms. Cude said if the document is going to be an electronic document, things can be addressed in more than one section. She said writing the content for an electronic version and a printed version are two different projects.

Mr. Klein suggested adding a bullet point to the section, “My family and I were evacuated from our home. When can we go home section?” that discusses notifying utility companies, the post office and the mortgage company that you are not living in the home.

Ms. Nelson reviewed the next section of the document, “Reporting a Claim.” Ms. Baker said in the first subsection, “When should I report property damage to my home or personal property?” she would recommend deleting the first sentence, because it suggests that homeowners might not report a claim to their insurance company. She said almost every insurance policy requires homeowners to submit a claim if there is damage to their property.

Ms. Baker said if an insured does not report a claim and, at some point later, wants to file a claim, the insurer might not pay the claim because the insured did not report the claim, which is a condition in the policy.

Ms. Nelson said this is difficult, because if someone is on the outskirts of a disaster and their damage is minor and falls below the deductible, the insured may not want to file a claim. She said the Working Group had discussed earlier that it wanted to give insureds the option, because zero claims can increase premiums in some states.

Ms. Baker said she has concerns with telling insureds to violate their contract. Ms. Brown said the majority of the states have changed their laws so a claim inquiry cannot be counted against an insured at the time of renewal. Ms. Nelson said she does not know how common this is, as Missouri does not have a law prohibiting a zero claim to be counted.

Mr. Workman said he also has concerns regarding the language. He suggested the Working Group put this section on hold and try to come up with alternative language. The Working Group will discuss this on its next call.
Mr. Klein said the first bullet point in the subsection, “What other information or paperwork could the insurance company or agent ask for during the claims process,” might need some changes. He said providing an inventory list for a total loss is one of the most difficult tasks for an insured to go through. He said he does not want insureds getting the impression that they are supposed to know the full range of their loss, or will be expected to quickly, following the loss. He does not want insureds to think they have done something wrong if they have not saved a receipt for every piece of personal property they have bought in the past decade.

Ms. Nelson said the next subsection, “What if I don’t have a completed home inventory list?” addresses this issue.

Mr. Klein said the first bullet point of that subsection reads, “The adjuster will give you time to make a list. Ask the adjuster how long you have to submit this.” Adjusters are under enormous pressure to close the inventory claim so they can limit how much the insurer is reserving.

Ms. Nelson agreed that there is probably not something countrywide that indicates how long an insured will have to put together an inventory list; however, insureds generally get a couple of weeks to produce an inventory, which is why the sentence ,“Ask the adjuster how much time you have to submit this inventory list,” is added to this bullet point.

Mr. Klein suggested starting the bullet point with, “Ask the adjuster how much time you have to submit this inventory list.” He said a policy generally sets forth a period of time the insured has to provide an inventory list, which is usually a year. He said two weeks is not realistic for someone who has lost everything in a disaster.

Ms. Brown suggested changing the bullet point to read, “The adjuster will give you some time to make a list. Ask the adjuster how long you have to submit this inventory list.” The Working Group agreed, and this change will be made.

Mr. Klein suggested adding a bullet point that reads, “Ask your friends or family for any photographs they may have taken inside your home. These photographs can show you some of the items in your home.” Ms. Nelson made note of this comment and will make this addition.

Mr. Klein suggested adding a bullet point in the “What do I need to ask when I file a claim?” subsection that reads, “Where in the policy does it say that?” He said this document is geared toward natural disasters and, many times, claims adjusters are not local and are sometimes not an employee of an insurer. He said these adjusters take positions as to what an insured gets or does not get. Some of these positions are randomly correlated to the insurance policy. He said anytime an adjuster is saying to the insured that they only get a certain amount, it is a good idea for the insured to ask where this is in policy. The policy will either support the adjuster’s position or it will not.

Ms. Nelson said it is her experience that this conversation will develop as the claim evolves and not during the insureds first conversation with the adjuster. She said this section is supposed to address the basic things the insured needs to know at the time the loss is reported. The Working Group agreed this may belong in another section.

Ms. Brown said there are two bullet points in the “What do I need to ask when I file a claim?” subsection that start with “the company.” She said “the company” is not necessary in these bullet points. She said, for consistency, the first bullet point, “The company for a general idea of what your policy will cover” should be changed to, “for a general idea of what your policy will cover.” Ms. Brown said for the bullet point, “The company about your deductible,” should be changed to say, “For information about your deductible.” The Working Group agreed, and this change will be made.

Ms. Baker suggested adding “the company’s website” to the last bullet point of the “When should I report property damage to my home or personal property?” subsection. She suggested adding “the company’s website” to the “What should I do if I don’t have my company or agent’s phone number?” subsection, as well. The Working Group agreed, and the change will be made.

The Working Group had no changes to the “Adjusters” section.

Ms. Nelson provided an overview of the “Working with the Insurance Adjuster” section. Mr. Klein said this might be the section to ask the question to the adjuster regarding where a denial points to in the policy provision. Ms. Nelson said this might fit better on page 11 in the subsection, “What if I’m not satisfied with the amount of my insurance settlement?” or the “What if the insurance company doesn’t agree with the public adjuster’s or my contractor’s estimate of damage?” section.
Mr. Klein suggested adding another blue box, in addition to the warnings to insureds, that explains the adjuster’s responsibilities for dealing with insureds. Ms. Nelson said most state insurance departments are charged with investigating insurance fraud, so she does not think this needs to be added.

Ms. Brown asked if it would make more sense to move the box under the “Reporting an insurance claim” section because, even before speaking to an adjuster, it is important for insureds to understand the importance of being truthful when reporting a claim. She said this box could go in between the “When do I report property damage to my home or personal property?” subsections, or to the “Settling your insurance claims” section. The Working Group agreed to move this to the “Claims Settlement” section.

Ms. Baker said in the “What should I do to prepare to meet with the adjuster?” subsection, the third bullet point discusses cost estimates. She said she wants to be sure insureds know they should not get a cost estimate prior to reporting a claim, because they should not slow down the process of reporting their claim. She said there are strict claims filing deadlines in Texas.

Ms. Nelson said this document covers a broad audience. During disasters, the states will be dealing with many insureds that have total losses or near total losses, but there are still insureds on the periphery that will have some impact and some damage. She said, in some cases, if there is not catastrophic damage to the home, the insured probably can call a contractor and get a bid. She said she believes that is why the wording “time permitting” was used.

Mr. Klein said, in the case of a fire, there are homes that are total losses and others that are just smoke-damaged. It is hard for the insured of a smoke-damaged house to get a contractor’s attention, because houses with smoke damage do not generate as much money for a contractor.

Ms. Nelson said the fourth bullet point reads, “If there is time before the adjuster inspects your home, try to get written bids from licensed contractors.” She said this could be changed to read, “There is time before the adjuster inspects your home. Try to get written bids from licensed contractors, but don’t slow the process by waiting for bids.” The Working Group agreed, and this change will be made.

Ms. Brown said it has been pointed out that not all states require contractors to be licensed. This problem could be solved by using a term such as “reputable” instead of “licensed.” The Working Group agreed, and this change will be made.

Ms. Nelson referenced a new section titled, “Additional Living Expenses.”

Ms. Baker said she would like to see wording at the beginning of the section, such as, “If you think you are going to need additional living expenses talk to your insurance company and learn what the insurance company will pay for before you start incurring bills.” She said there was at least one insurer following Hurricane Harvey who told insureds that they did not tell them they needed additional living expenses (ALE), so it was not filed as part of the claim. When this occurred, the insurer told insureds that they may not pay for ALE.

Ms. Nelson said this information was alluded to in another section, and Ms. Baker suggested adding it to this section, as well.

Mr. Klein said the ALE section was too descriptive and suggested changing it to read, “ALE typically covers living costs above and beyond your normal expenses while you cannot live in your home because of damage.”

Ms. Hatchette said consumers will ask what this means if there is something this general, and that is why it is written the way it is currently in the document.

Having no further business, the Transparency and Readability of Consumer Information (C) Working Group adjourned.

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Transparency and Readability of Consumer Information (C) Working Group
Conference Call
February 25, 2019

The Transparency and Readability of Consumer Information (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call Feb. 25, 2019. The following Working Group members participated: Angela Nelson, Chair, and Gina Clark (MO); Ken Allen (CA); Bobbie Baca (CO); George Bradner (CT); Angela King (DC); Reid McClintock (IL); Heather Droge and Tate Flott (KS); Joy Hatchette (MD); Kathy Shortt (NC); Jana Jarrett (OH); Dena Wildman (WV). Also participating were: Kate Kixmiller (IN); Chris Aufenthie (ND); Mark Nussenfeld (NJ); Meldee Love and Tracy Klausmeier (UT); and Barbara Belling (WI).

1. **Discussed the Consumer Claims Document**

Ms. Nelson reviewed the “What is depreciation?” section of the claims document. The Working Group previously discussed placing the depreciation information in a text box and adding an infographic with an example. Providing this information to consumers in a more visual way is easier for the consumer to understand. Ms. Nelson is going to work with Missouri’s communications department to create an infographic.

Birny Birnbaum (Center for Economic Justice—CEJ) said depreciation means different things in different contexts. He said depreciation regarding an auto claim is different from depreciation regarding a homeowners claim. He suggested placing the depreciation information in a text box somewhere near the actual cash value (ACV) and replacement cost value (RCV) sections. He believes ACV and RCV need to be introduced prior to discussing depreciation, and examples need to be given for depreciation using both ACV and RCV.

Kenneth Klein (California Western School of Law) said rebuilding homes following a disaster may take longer than a year. A significant number of insurance policies are seeking to close the personal property claims and require the inventory to be completed within a year from the date of loss. California extends this timeline in the case of a declared disaster, but this does not occur in all states.

Mr. Klein said a problem occurs when the policyholder has a choice between a depreciated loss and the actual cost of replacement. He said a homeowner does not and cannot know within that year which of these to use. He said this document does not allude to this dilemma or indicate how a policyholder should navigate this issue. Ms. Nelson asked Mr. Klein if there needs to be a bullet point or a section in the document that discusses how long it takes to settle a claim, or if this information should be included in the ACV/RCV section of the document that discusses what might happen in the event of a disaster.

Mr. Klein said there are two problems: one is an emotional problem and the other is a technical problem. He said if a policyholder has suffered a total loss, and has truly lost everything they own, this becomes an emotional problem. The next day, the policyholder will be buying items of necessity, such as a toothbrush. Mr. Klein said this document anticipates the policyholder will immediately compile a list of everything that has been lost, and this is nearly impossible because the policyholder is having to focus on every item they have lost on a daily basis.

Mr. Klein said the technical problem arises when the policyholder does not know what they are going to buy to replace the original item until they know the size of the room and the color of paint on the walls. He said that if these decisions are not being made for 12 or 16 months in the future, due to construction cycles, and the policy has a one-year deadline on closing the policyholder’s inventory, this is a technical problem these policyholders are going to encounter. The policyholder will likely not know they are going to encounter this problem.

Ms. Nelson said many commissioners will step in and ask insurers to extend this deadline. She said there are individual circumstances that may present themselves, and a claims adjuster will work with an individual claimant to extend that timeline, as well. She said the problem is the balance because timelines will not always be extended. She asked if this might be as simple as adding wording such as: “We know you are going to be overwhelmed through this process. On most personal property if you have an RCV policy you will get your initial ACV payment. You are going to be working through the construction process and you may not think about how long you have to replace these items. Make sure you talk with your claims adjuster at the beginning, so you know what their expectations are, and then communicate with the adjuster throughout the claims process if you run into any problems.”
Ms. Hatchette suggested adding a line that says “if you have any questions, talk to your state insurance department.” She said the document should not be too long and onerous for consumers.

Mr. Bradner said some of what Mr. Klein is alluding to is starting to fall into the realm of long-term recovery. He said states and towns need to have long-term recovery plans. He said it might be important when communicating with policyholders to know recovery is not always going to happen within 12 months; it could take two or three years. The state insurance department is there to help consumers navigate these types of situations as they occur. Mr. Bradner said the document could say “all disasters are different, and it may take time for recovery.” He said the document could also state, “After a disaster, you will go through stages and all disasters are different. It takes time to recover from a disaster.”

Ms. Nelson said something could be adding telling policyholders to ask their adjuster about any time frames they need to be aware of; and this could be placed in the “What if I don’t have a completed inventory list?” section. She said something brief in the ACV/RCV section, or immediately after, could be added to say, “If you have problems in the course of working with your insurance company regarding the timing of recouping that additional RCV, please contact your state insurance department.”

Ms. Bach suggested adding holdbacks that may apply as part of this question. Ms. Nelson said adding “please also see the section about RCV and ACV settlements” might be necessary. She said this would point the consumer to more information they need to find. The Working Group agreed.

Ms. King said the District of Columbia had an issue occur in which the policyholder did not know their claim was being settled on a functional replacement cost basis. She said the insurer was using this to bring the property back to its functional form and not the actual replacement.

Mr. Bradner said many states have approved the use of functional replacement cost. He said many consumers do not understand what this means until they are having to settle a claim in this manner. He said there are many different approaches under the claims-settlement process. He said the section about “like kind and quality” would be a good place for functional replacement cost to be added. He suggested showing how ACV, RCV and functional replacement cost work.

Ms. Nelson asked Mr. Bradner where the functional replacement cost section should be added. Mr. Bradner said he would add it under replacement cost. The document could discuss how things are replaced, either with like kind and quality or functional replacement cost. The claim will be settled based on the contract. The question is whether the insurance company adds functional replacement to the homeowners policy or the business policy. If functional replacement cost is added, this will replace the general replacement cost provisions of like kind and quality; and it would replace it with a functional replacement cost, which is not going to be like kind and quality. Functional replacement cost is a lesser value than like kind and quality in many instances.

Ms. Bach said this is an incredibly important comment, because it also includes the issue of matching, line of sight, etc. Ms. Nelson said a bullet point would be added regarding functional replacement cost, and she would draft some language.

Ms. Bach said it is important to explain to consumers that there may be different terminology in their policies that affect the amount they will collect short-term and throughout the loss process. Ms. Nelson said one constraint regarding this document is that it is a countrywide document that explains the basics of the claims process following a disaster. She suggested using “breadcrumbs” to tell consumers where to go to find more information on a specific topic.

Mr. Allen said depreciation of the structure and the personal property should be differentiated. He said functional replacement cost is useful to the insurer, but it may create problems with a mortgage company. More than half of all homes in the U.S. have mortgages. This is an impairment of collateral if the home is rebuilt on a functional replacement cost instead of with like kind and quality. Mr. Allen said there needs to be awareness regarding this issue.

Ms. Nelson suggested that instead of starting the section with “What if I am not satisfied with the amount of my settlement?” the section could start off with “How is my settlement calculated?” At this point, the document could discuss the dwelling structure and later delve into how this works with personal property. She said infographics regarding how depreciation works could be included. The Working Group agreed to split up the topics by dwelling and personal property.
Lisa Brown (American Property Casualty Insurance Association—APCIA) said she likes the idea of adding a “How is my calculated settlement?” bullet point. If policyholders read this document immediately following a disaster, they need answers to questions such as “What do I need to do and what does the insurer expect me to do if my home or property gets destroyed?” rather than getting caught up before necessary first steps have been taken to get a claim moving.

Ms. Nelson said this information is something that is already included, noting that the Working Group has been asked if this topic needs to remain where it is.

Ms. Brown said the only thing she believes does not make sense is the “What should I do if my home or property gets destroyed?” section. She said this section seems to be misplaced, and she asked if there is another section that this information might be placed. Ms. Brown said the depreciation section is paired with things to do immediately following a disaster.

Ms. Nelson is going to move this information. She suggested moving the “What if I’m not satisfied with the amount of my insurance settlement?” section to the end of the document. The Working Group agreed. Ms. Nelson will make this change.

Ms. Nelson added the following topics: “What is a deductible?” and “Are there different types of deductibles?” She is also adding the following language: “A deductible is the part or amount of the claim you are responsible for. In other words, insurance companies will deduct this amount from any claims settlement amounts they pay to you or on your behalf.”

Ms. Hatchette said when discussing the types of deductibles, the document should discuss percentage deductibles and wind deductibles so consumers know specifically what to look for, because one type of event may trigger a different type of percentage deductible. The percentage is a percentage of the amount to rebuild a home or property; it is not a percentage of the claim. The Working Group agreed.

Ms. Nelson said, in the “My adjuster mentioned some of my personal property has a special limit of liability, what is that?” section, the language reads: “A special limit of liability caps how much money you will get paid in a claim for certain types of property. Don’t confuse this with the contents or personal property limits. A special limit of liability will apply to specific categories of property like jewelry, furs, guns, antiques, collector items, and coins. You can find these special limits of liability on your declarations page of your insurance policy.”

Ms. Baca said she would eliminate the sentence, “You can find these special limits of liability on your declarations page on your insurance policy.” She said she does not recall ever seeing special limits of liability on the declarations page of her policy. She said they are a part of the policy contract. Ms. Nelson will delete this sentence. Ms. Shortt suggested adding named storm deductibles to the list.

Ms. Nelson reviewed the “What if the government authorities condemn my home or property?” section. Mr. Bradner said this could be a huge topic in and of itself, and he asked if this is relevant. He said if consumers have a flood claim and their property is condemned, then they would need follow an entirely different path regarding a flood claim and whether they can rebuild. He suggested striking this section.

Ms. Nelson said following the tornado in Joplin, MO, property claims where a home was rebuilt in another location were settled using ACV. She said this was policy-specific language because there is no law in Missouri regarding this topic.

Mr. Allen said California has specific state laws regarding rebuilding in another location. He suggested adding a bullet point that states, “Check your state law.” He said in California you could, in theory, hold a policy that requires a policyholder to rebuild without being able to move or use the money. The Working Group agreed to add a bullet point to tell consumers to check with their state insurance department.

Ms. Nelson asked if California did this by statute or if it was a result of the wildfires. Mr. Allen said it was part of the package of changes to the statutes.

Ms. Nelson reviewed the “I’ve accepted the insurance company’s settlement, I am ready to repair or rebuild. What do I need to know?” section. Mr. Bradner had an overriding comment regarding this type of process. He said encouraging the consumer to document conversations with the insurer, the adjuster, etc.; and documenting the times, days and who they spoke to during the process is extremely important. He suggested putting this at the beginning of the document. Ms. Nelson said, at some point, the document will include a journal section so consumers can record these interactions.
Ms. Nelson reviewed the “What is ordinance and law coverage?” section. The Working Group members said examples could include electrical, plumbing, windows, safety glazing, smoke detectors, roofing materials, double pane windows, number of trusses, insulation and wiring.

Mr. Bradner said Connecticut has passed legislation requiring homeowners to replace their windows with impact-resistant glass if they live within a mile of the shore and the home is more than 50% destroyed.

Ms. Nelson reviewed the “What do I need to do before a disaster occurs?” section. Ms. Brown suggested changing the heading to read “What do I need to do before the next disaster occurs?” Ms. Nelson will make this change. Ms. Hatchette suggested adding information regarding the apps consumers can use to produce home inventories. Ms. Nelson will add this information to the document.

Ms. Shortt said there is nothing in the document regarding additional living expenses. She said a lot of questions are asked in North Carolina regarding evacuation and how additional living expenses apply. The Working Group agreed this should be added.

Ms. Nelson asked if either North Carolina or Maryland has materials regarding additional living expenses to share with the Working Group. Ms. Hatchette will send information regarding additional living expenses.

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 of the Property and Casualty Insurance (C) Committee met via conference call Feb. 13, 2019. The following Working Group members participated: Angela Nelson, Chair, and Jeana Thomas (MO); Tracy Garceau (CO); Reid McClintock (IL); Tate Flott (KS); Jana Jarrett (OH); and Bill Cole (WY). Also participating were: Cuc Nguyen (OK); Bruce Vario (UT); and Manabu Mizushima (WA).

1. **Discussed the Consumer Claims Document**

Ms. Nelson suggested that the Working Group start with the “What is depreciation and how does that affect my claim?” section.

Birny Birnbaum (Center for Economic Justice—CEJ) said replacement cost value and actual cash value need to be included in the depreciation section. He also suggested using a more relevant example of depreciation.

Amy Bach (United Policyholders—UP) said UP has a standard definition for “depreciation.” She said depreciation is the loss of value of an item over time due to wear and tear or usage. Ms. Bach agreed that before using an example a question should be answered. She is going to send Ms. Nelson a link to the information used by UP regarding depreciation basics.

Ms. Nelson suggested using a colored inset text box defining depreciation. Ms. Bach said it is important to make the point that depreciation is subjective, as there is not a set schedule for insurers to use. She said not all items are subject to depreciation. She said the example UP uses refers to a couch. If you buy a couch, have it in the family room and it is well used, then it would have more depreciation than a couch in a formal living room that is not used much. Ms. Bach said this is how it is done in California; however, not all states may use the condition of an item when determining depreciation.

Ms. Garceau said one of the biggest issues in Colorado is how depreciation is applied. She said some insurers in Colorado have schedules they use; and these schedules are available to regulators. She said Colorado often uses the example of a television. She said depreciation is an intangible issue that consumers have a hard time understanding, and she believes a real-life scenario would be appropriate.

Ms. Nelson suggested a depreciation example using a roof, which applies to the structure itself. She said policyholders understand their homes appreciate, but they do not always understand the depreciation part. Consumers also do not always understand why depreciation is used at all when a homeowner has replacement cost coverage.

Ms. Bach said this might need to be explained. She said the question “how will depreciation affect my benefits” may need to be asked and an example might need to be provided. The insurer will temporarily or permanently hold back a portion of the replacement value.

Mr. Birnbaum said there is a hierarchy of concepts that need to be provided to the consumer. First, consumers need to know whether they have replacement cost value (RCV) or actual cash value (ACV) coverage. It is important to explain what ACV means and explain how it is calculated by the insurer. He said this is important because most consumers have auto insurance, and they understand the ACV for an automobile using Kelley Blue Book. This is not how homeowners insurance works; therefore, it is important to explain how ACV works with a homeowners claim.

Ms. Nelson said the Working Group might consider using an infographic to explain how ACV works and providing a couple of brief examples.

Ms. Bach said there is also permanent holdback versus what is recoverable. She said some depreciation can be collected once an item is replaced. This goes back to explaining that there are two types of coverage. Ms. Nelson said the infographic could show how depreciation differs between an ACV and an RCV policy. This information would be a key part of an infographic.

Ms. Bach said the hot topics being fought out in court regarding depreciation are overhead, profit, labor and whether these items are subject to depreciation.
Mr. Birnbaum said he believes one form of this document should be an electronic version that consumers can access on mobile devices so there can be hyperlinks to a glossary or definitions. He said this way a consumer can see the definition for a term if necessary. He said the items important to consumers include whether they have ACV coverage or RCV coverage and what they should expect under each type of coverage. He said under the ACV section, consumers need to know whether the ACV is determined based on market value or a schedule.

Mr. Birnbaum said when the term “depreciation” is introduced, it can have many different meanings, including what the Internal Revenue Service (IRS) says regarding home depreciation. He said when introducing the term “actual cash value,” consumers need to know there are two ways this can be calculated. Depreciation for automobiles uses market value, while property insurance and ACV is determined using a schedule. Consumers need to know how to protect themselves. Mr. Birnbaum suggested using key concepts and then expanding on the topic of depreciation. He said this is a lot of information for consumers to process, noting that it needs to be organized differently. He suggested considering the key points a consumer needs to take away and highlighting the key points in a searchable document.

Mr. Powell said he does not know if there is anywhere in the document discussing internal policy limits regarding how items are scheduled. He believes there is value in including this information. Ms. Nelson suggested adding a section that discusses an inventory list and the concept of scheduling. Mr. Powell will provide some language for this section.

Ms. Garceau suggested adding a link to MyHOME Scr.APP.book, the NAIC home inventory smartphone app.

Ms. Nelson asked the Working Group to provide input regarding the “ACV versus RCV” section. The Working Group agreed that the information provided in this section is useful. Mr. Birnbaum suggested including decision points the policyholder might need to understand the difference between ACV and RCV.

Ms. Nelson reviewed the “What is deductible?” and “How do I get a settlement offer?” sections. These sections still need to have text added to them. Mr. McClintock said he believes percentage deductibles need to be explained in this document, because many consumers do not understand how percentage deductibles work. Ms. Garceau said deductibles are also applicable to different parts of a structure, such as a roof. Mr. Powell said many consumers believe a 1% deductible refers to 1% of the loss value and not 1% of the value of the home.

Ms. Bach agreed that there are a couple of important points that need to be made. She said there may be a flat dollar or percentage deductible, and the deductible will apply to the amount of coverage. She asked if it is important for the consumer to understand why there is a deductible.

Ms. Nelson said that while she believes this is important, she does not know if this is the right time or venue to discuss this topic. This is not a message that will be well received following an event. She said the document could state that it is important to say homeowners policies have some type of deductible which is the amount a policyholder is responsible for following a loss. Then, the document can discuss the coverages this may or may not apply to.

Mr. McClintock said earthquake deductibles are high. Ms. Nguyen said wind and hail deductibles are high in Oklahoma. She said the Insurance Services Office (ISO) policy has a deductible example included in the policy language. Ms. Nelson said the Working Group might consider adding an example showing the calculation process.

Ms. Bach said Ms. Nelson’s language “the deductible is the amount you are responsible for” is good, and she asked if the Working Group wanted to consider adding “this doesn’t mean you have to lay that money out before you will collect money from your insurance company.” Mr. Powell said consumers are not generally aware that they have to spend the settlement money. He believes this should be included in the language. Ms. Nelson will draft some language.

Ms. Nelson reviewed the “How do I get a settlement offer?” section. She said a section that discusses what steps a consumer needs to take if they are not satisfied with a settlement already exists. Colorado suggested moving this information to the “What do I do when an adjuster comes to my home or property?” section. Ms. Nelson said a section regarding supplements could be added. She said this might also fit under the “How long will it take for my insurance claim to be settled?” section. The Working Group agreed.
Ms. Nelson reviewed the “What if the government authorities condemn my property?” section. She said to be sure the adjuster has inspected the damage. She said the purpose behind this statement is to make sure that before someone actually starts bulldozing a property, the insurance company has seen what is going on. She said maybe this should state specifically before any demolition occurs.

Ms. Bach said consumers would want to make sure the insurance company agrees that this is a total loss. Ms. Garceau said it is important for the insurance company to see the damage before any other work begins, even a supplement. She suggested saying “any additional work not on the estimate has to be approved, or the insurance company has to be notified prior to work being done.” She suggested stating “this would also apply to demolition.” Ms. Nelson said this is one of the bullet points in the preamble. Ms. Garceau suggested adding “this is important even if the loss is a total loss and there is demolition.”

Ms. Nelson said a bullet point would be added to say, “Be sure the adjuster is aware of any condemnation and has fully inspected the damage before any demolition or debris removal occurs.”

Ms. Bach said it is not always within the consumer’s power to ensure that the adjuster does anything. She suggested phrasing the bullet point to articulate the need for the consumer to notify or keep the insurance company informed. It is important to understand that the consumer cannot be sure an adjuster has inspected the property.

Ms. Nelson suggested the following language: “Contact the adjuster so they are aware of any condemnation and ask if they have fully inspected the damage before a demolition or debris removal occurs.” The Working Group agreed.

Ms. Nelson reviewed the “My home or property cannot be repaired. Can I use the insurance settlement to build or buy another home somewhere else?” section. Mr. McClintock suggested replacing “property” with “location” in the second bullet point of this section.

Ms. Bach suggested changing “check your insurance policy and talk with your insurance agent or insurance company and check with your state department of insurance.” She said this is a hot issue in California due to a law that was passed allowing homeowners to replace their damaged property in its current location or to replace their damaged property by buying or rebuilding elsewhere. However, the law is somewhat ambiguous regarding which benefits one can export. She said there is some contention over whether a policyholder can export their code upgrade coverage and extended replacement. She said this is a California issue.

Ms. Garceau said, in Colorado, policyholders only get an ACV settlement if they rebuild elsewhere. Ms. Nelson said Missouri does not have any type of law regarding rebuilding. She said it depends on the policy and how it is structured. Ms. Garceau suggested adding the caveat to contact the state insurance department because policies are changing so quickly.

Ms. Nelson said it is important to note that the consumer affairs staff cannot do anything but advise the policyholder. She said it could be changed to say “check your insurance policy and check with your adjuster. The adjuster will be able to tell the consumer how to respond.” She suggested adding a drafting note to tell consumers to contact their state insurance department if there are laws in their state.

Having no further business, the Transparency and Readability of Consumer Information (C) Working Group adjourned.
2019 PROPOSED CHARGES

PROPERTY AND CASUALTY INSURANCE (C) COMMITTEE

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

Ongoing Support of NAIC Programs, Products or Services

1. The Property and Casualty Insurance (C) Committee will:
   A. Discuss issues arising and make recommendations with respect to advisory organization and insurer filings for personal and commercial lines, as needed. Report yearly.
   B. Monitor the activities of the Casualty Actuarial and Statistical (C) Task Force.
   C. Monitor the activities of the Surplus Lines (C) Task Force.
   D. Monitor the activities of the Title Insurance (C) Task Force.
   E. Monitor the activities of the Workers’ Compensation (C) Task Force.
   F. Provide an impartial forum for considering appeals of adverse decisions involving alien insurers delisted or rejected for listing to the Quarterly Listing of Alien Insurers. Appeal procedures are described in the International Insurers Department (IID) Plan of Operation.
   G. Monitor and review developments in case law and rehabilitation proceedings related to risk-retention groups (RRGs). If warranted, make appropriate changes to the Risk Retention and Purchasing Group Handbook.
   H. Monitor the activities of the Federal Crop Insurance Corporation (FCIC) that affect state insurance regulators:
      1. Serve as a forum for discussing issues related to the interaction of federal crop insurance programs with state insurance regulation.
      3. Monitor the regulatory information exchanges between the FCIC and state insurance regulators, as well as the FCIC and the NAIC, and make recommendations for improvement or revisions, as needed.
   I. Review findings in the pet insurance white paper and consider whether any additional regulatory activities are warranted, including the possibility of drafting a model law or guideline.

2. The Advisory Organization Examination Oversight (C) Working Group will:
   A. Revise the protocols, as necessary, for the examination of national or multistate advisory organizations (includes rating organizations and statistical agents) to be more comprehensive, efficient and possibly less frequent than the current system of single-state exams. Solicit input and collaboration from other interested and affected committees and task forces.
   B. Monitor the data reporting and data collection processes of advisory organizations (including rating organizations and statistical agents) to determine if they are implementing appropriate measures to ensure data quality. Report the results of this ongoing charge as needed.
   C. Actively assist with and coordinate multistate examinations of advisory organizations (including rating organizations and statistical agents).

3. The Cannabis Insurance (C) Working Group will:
   B. Consider the insurance regulatory issues surrounding the legalized cannabis business, including availability and scope of coverage, workers’ compensation issues, and consumer information and protection. The Working Group will develop a white paper outlining the issues and containing recommendations for the development of regulatory guidance as appropriate. The Working Group will complete its work by first quarter 2020.

3. The Catastrophe Insurance (C) Working Group will:
   A. Monitor and recommend measures to improve the availability and affordability of insurance and reinsurance related to catastrophe perils for personal and commercial lines.
B. Evaluate potential state, regional and national programs to increase capacity for insurance and reinsurance related to catastrophe perils.

C. Monitor and assess proposals that address disaster insurance issues at the federal and state levels. Assess concentration-of-risk issues and whether a regulatory solution is needed.

D. Provide a forum for discussing issues and recommending solutions related to insuring for catastrophe risk, including terrorism, war and natural disasters.

E. Provide a forum for discussing various issues related to catastrophe modeling, and monitor issues that will result in changes to the Catastrophe Computer Modeling Handbook.

F. Investigate and recommend ways the NAIC can assist states in responding to disasters, and discuss issues surrounding loss mitigation. Update the State Disaster Response Plan, as needed, so that it provides a blueprint for action by the states to respond to catastrophic events.

G. Collect and analyze National Flood Insurance Program (NFIP) data, and create a best practices document to help facilitate the private flood insurance market.

H. Study, in coordination with other NAIC task forces and working groups, earthquake matters of concern to state insurance regulators. Consider various innovative earthquake insurance coverage options aimed at improving take-up rates.

4. The Climate Risk and Resilience Change and Global Warming (C) Working Group will:
   A. Engage with industry and stakeholders in the U.S. and abroad on climate related risk and resiliency issues.
   B. Investigate and recommend measures to reduce risks of climate change related to catastrophic events.
   C. Identify insurance and other financial mechanisms to protect infrastructure and reduce exposure to the public.
   D. Identify sustainability, resiliency and mitigation issues and solutions related to the insurance industry.
   E. Evaluate private-public partnerships to improve insurance market capacity related to catastrophe perils.
   F. Investigate and receive information regarding the use of modeling by carriers and their reinsurers concerning climate risk.
   G. Review the impact of climate change on insurers through presentations by interested parties.
   H. Review innovative insurer solutions to climate risk, including new insurance products through presentations by interested parties.

5. The Lender-Placed Insurance Model Act (C) Working Group will:
   A. Complete the drafting and adoption of a new model law concerning lender-placed insurance as it relates to mortgages.

6. The Pet Insurance (C) Working Group will:
   A. Review “A Regulator’s Guide to Pet Insurance” and consider whether a model law or guideline is needed to establish appropriate regulatory standards for the pet insurance industry.

6.7. The Terrorism Insurance Implementation (C) Working Group will:
   A. Coordinate the NAIC’s efforts to address insurance coverage for acts of terrorism. Work with the U.S. Department of the Treasury’s Terrorism Risk Insurance Program (TRIP) Office on matters of mutual concern. Discuss long-term solutions to address the risk of loss from acts of terrorism.
   B. Review and report on data collection related to insurance coverage for acts of terrorism.

7.8. The Transparency and Readability of Consumer Information (C) Working Group will:
   A. Study and evaluate actions that will improve the capacity of consumers to comparison shop on the basis of differences in coverage provided by different insurance carriers offering personal lines products.
   B. Systematize and improve presale disclosures of coverage.
   C. Increase consumer accessibility to different carriers’ policy forms on a presale basis. The Working Group should consider all possible avenues of accessibility, including state insurance department websites, the NAIC, insurance companies and the possibility of presale provision of complete policy language.
D. Facilitate consumers’ capacity to understand the content of insurance policies and assess differences in insurers’ policy forms. The Working Group should consider: 1) implementing new readability rules as suggested by the Market Regulation and Consumer Affairs (D) Committee; 2) promoting consistent, clear and logical formatting and organization of all policies; and 3) any other measures that would improve the intellectual accessibility of policy forms.

E. Develop a shopping tool for homeowners, renters and business owners on flood insurance coverage, and work with state insurance regulators to develop a standardized website and flood bulletin to assist consumers who have questions regarding flood insurance.

F. Study and discuss whether there is a need for consumer disclosures regarding significant premium increases on property/casualty (P/C) insurance products.

G. Update *A Shopping Tool for Homeowners Insurance* and *A Shopping Tool for Automobile Insurance*.

NAIC Support Staff: Aaron Brandenburg/Kris DeFrain

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

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

1. **The Casualty Actuarial and Statistical (C) Task Force will:**
   A. Provide reserving, pricing, ratemaking, statistical and other actuarial support to NAIC committees, task forces and/or working groups. Propose changes to the appropriate work products (with the most common work products noted below), and present comments on proposals submitted by others relating to casualty actuarial and statistical matters. Monitor the activities, including the development of financial services regulations and statistical (including disaster) reporting, relating to casualty actuarial issues.
   1. Blanks (E) Working Group (property/casualty (P/C) annual financial statement, including Schedule P; P/C quarterly financial statement; P/C quarterly and annual financial statement instructions, including Statement of Actuarial Opinion (SAO) and Actuarial Opinion Summary Supplement).
   7. Auto insurance affordability, data call, any remaining issues related to price optimization.

   B. Monitor national casualty actuarial developments, and consider regulatory implications.
   1. Casualty Actuarial Society (CAS) (Statements of Principles and Syllabus of Basic Education).
   3. Society of Actuaries (SOA) (general insurance track).

   C. Monitor activities related to the Own Risk and Solvency Assessment (ORSA), including the activities of the Group Solvency Issues (E) Working Group, the Academy, the International Actuarial Association (IAA) and other relevant organizations.

   D. Facilitate discussion among regulators regarding rate filing issues of common interest across states through the scheduling of regulator-only conference calls.

   E. In coordination with the Executive (EX) Committee, conduct the following work related to P/C appointed actuaries:
   1. Develop an attestation an actuary must complete and sign annually to verify the actuary is qualified to sign a statutory P/C SAO.
   2. Work with the Academy to add clarity to the required three-year experience period in the U.S. Qualification Standards.

   F. Work with the CAS and SOA to identify: 1) whether the P/C appointed actuaries’ logs of continuing education (CE) should contain any particular categorization to assist regulatory review; 2) what types of learning P/C appointed actuaries are using to meet CE requirements for specific qualification standards today; and 3) whether more...
G. specificity should be added to the P/C appointed actuaries’ CE requirements to ensure CE is aligned with the educational needs for a P/C appointed actuary.

H. In coordination with the Big Data (EX) Working Group:
   1. Draft and propose changes to the Product Filing Review Handbook (Handbook) to include best practices for review of predictive models and analytics filed by insurers to justify rates.
   2. Draft and propose state guidance (e.g., information, data) for rate filings that are based on complex predictive models.
   3. Facilitate training and the sharing of expertise through predictive analytics webinars (aka “Book Club”).

2. The Actuarial Opinion (C) Working Group will:
   A. Propose revisions to the following, as needed, especially to improve actuarial opinions, actuarial opinion summaries and actuarial reports, as well as the regulatory analysis of these actuarial documents and loss and premium reserves:
      2. Annual Statement Instructions—Property/Casualty.
      3. Regulatory guidance to appointed actuaries and companies.
      4. Other financial blanks and instructions, as needed.
   B. Based on language for the Annual Statement Instructions – Property/Casualty requiring completion of the appointed actuary’s attestation of qualification, provide additional guidance in the 2019 regulatory guidance document.

3. The Statistical Data (C) Working Group will:
   A. Consider updates and changes to the Statistical Handbook of Data Available to Insurance Regulators.
   B. Consider updates and developments, provide technical assistance, and oversee the production of the following reports and databases. Periodically evaluate the demand and utility versus the costs of production of each product.
      1. Dwelling Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owners Insurance.
      2. Auto Insurance Database.

NAIC Support Staff: Kris DeFrazier/Libby Quinn
2019 PROPOSED CHARGES
SURPLUS LINES (C) TASK FORCE

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

Ongoing Support of NAIC Programs, Products or Services

1. The Surplus Lines (C) Task Force will:
   A. Provide a forum for discussion of current and emerging surplus lines-related issues and topics of public policy, and determine appropriate regulatory response and action.
   B. Review and analyze quantitative and qualitative data on U.S. domestic and alien surplus lines industry results and trends.
   C. Monitor federal legislation related to the surplus lines market, and ensure all interested parties remain apprised.
   D. Oversee the activities of the Surplus Lines (C) Working Group.

2. The Surplus Lines (C) Working Group will:
   A. Operate in regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings and operate in open session when discussing surplus lines topics and policy issues, such as amendments to the International Insurers Department (IID) Plan of Operation.
   B. Maintain the IID Plan of Operation and its requirements relating to standards for inclusion on the Quarterly Listing of Alien Insurers concerning capital and/or surplus funds, U.S. trust accounts and fitness of management, among other criteria.
   C. Provide a forum for surplus lines-related discussion among jurisdictions.

NAIC Support Staff: Bob Schump/Andy Daleo
2019 PROPOSED CHARGES

TITLE INSURANCE (C) TASK FORCE

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

Ongoing Support of NAIC Programs, Products or Services

1. The Title Insurance (C) Task Force will:
   A. Monitor issues and developments occurring in the title insurance industry, and provide support and expertise to other NAIC committees, task forces and/or working groups, or outside entities, as appropriate.
   B. Review and assist various regulatory bodies in combating fraudulent and/or unfair real estate settlement activities. Such efforts could include working with the Antifraud (D) Task Force and other NAIC committees, task forces and/or working groups to combat mortgage fraud and mitigating title agent defalcations through the promotion of closing protection letters and other remedies. Report results at each national meeting.
   C. Consult with the Consumer Financial Protection Bureau (CFPB) and other agencies responsible for information, education and disclosure for mortgage lending, closing and settlement services about the role of title insurance in the real estate transaction process.

2. The Title Insurance Financial Reporting (C) Working Group will:
   A. Consider the effectiveness of recent changes in financial reporting by title insurance companies and identify further improvements and clarifications to blanks, instructions, Statement of Statutory Accounting Principles (SSAPs), solvency tools and other matters. Coordinate efforts with the Statutory Accounting Principles (E) Working Group.

NAIC Support Staff: Jennifer Gardner/Aaron Brandenburg
2019 PROPOSED CHARGES

WORKERS’ COMPENSATION (C) TASK FORCE

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

Ongoing Support of NAIC Programs, Products or Services

1. The **Workers’ Compensation (C) Task Force** will:
   A. Oversee activities of the NAIC/IAIABC Joint (C) Working Group.
   B. Discuss issues with respect to advisory organizations and insurance companies in the workers’ compensation arena.
   C. Monitor the movement of business from the standard markets to the assigned risk pools. Alert state insurance department representatives if growth of the assigned risk pools changes dramatically.
   D. Assist the NAIC/IAIABC Joint (C) Working Group in its efforts to update the 2009 white paper, *An Overview of Workers’ Compensation Independent Contractor Regulatory Approaches*.

2. The **NAIC/IAIABC Joint (C) Working Group** will:
   A. Study issues of mutual concern to insurance regulators and the International Association of Industrial Accident Boards and Commissions (IAIABC). Review relevant IAIABC model laws and white papers, and consider possible charges in light of the Working Group’s recommendations.

NAIC Support Staff: Sara Robben/Aaron Brandenburg

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TO: Property and Casualty Insurance (C) Committee

FROM: NAIC Staff

DATE: April 3, 2019

SUBJECT: Report on Private Flood Insurance Data

The purpose of this report is to inform the Property and Casualty Insurance (C) Committee about the information filed by insurers regarding private flood insurance within the Property and Casualty Annual Statement for 2018. Private flood insurance data was previously reported under Allied Lines (Line 2.0) within the State Page but began to be reported separately on Line 2.5 with the filing of the 2016 Annual Statement data. The report will also address some shortcomings in the data collection process and make some suggestions for future actions.

Overview

Floods continue to be the most costly natural disaster in the United States. While the National Flood Insurance Program (NFIP) is the main source of flood insurance coverage, more sophisticated risk assessment and modeling have developed in recent years enabling the private market to more accurately price the risk and generating new interest among private insurers to provide such coverage.

State insurance regulators support facilitating increased private sector involvement in the sale of flood insurance as a complement to the NFIP to help provide consumers with more choices and additional coverage features potentially at more affordable prices.

As the private flood insurance market grows and more companies offer coverage, state insurance regulation will continue to evolve to meet the size and breadth of the market as well as the needs of consumers. In recognition of this growing market, state insurance regulators, through the NAIC, developed a requirement for insurers to include a line item in their Annual Statement highlighting their private flood insurance activity. This data will provide state insurance regulators with a comprehensive overview of the size of the private flood insurance market and provide insights into the market as it grows.

Data Filed on the Annual Statement
The State Page requires the following information on private flood policies to be filed on a state-by-state basis:

- Direct Premiums Written
- Direct Premiums Earned
- Dividends Paid or Credited to Policyholders on Direct Business
- Direct Unearned Premium Reserves
- Direct Losses Paid (deducting salvage)
- Direct Losses Incurred
- Direct Losses Unpaid
- Direct Defense and Cost Containment Expense Paid
- Direct Defense and Cost Containment Expense Incurred
- Direct Defense and Cost Containment Expense Unpaid
- Commissions and Brokerage Expenses
- Taxes, Licenses and Fees

**Data Findings**

The initial results of the 2018 private flood insurance filings indicate over 120 insurers wrote private flood insurance in 2018, up from around 90 insurers in 2017 and 50 in 2016. The total direct premium written in states and territories was approximately $644 million in 2018, compared to $589 million the prior year. States saw a 71% growth in private flood insurance written premium from 2016 to 2018, with 15 states experiencing over 100% growth.

Direct earned premium reported was $606 million in 2018; direct earned premium reported in 2017 was $551 million. Having less earned premium than written premium is indicative of a growing market. For perspective, the NFIP had approximately $3.3 billion in earned premium in 2017.

Fourteen companies wrote over $10 million in private flood insurance in 2018, up from 12 in 2017, while 34 companies wrote at least $1 million in 2018, up from 28 in 2017. The top individual company wrote 34% of all business, about the same as 2017. The top ten insurers wrote over 78% of all business in 2018, slightly less than in 2017.

The national pure loss ratio (direct loss incurred/direct premium earned) was 32% in 2018, compared to 177% in 2017. State loss ratios ranged from less than 1% to over 300%. The largest loss ratios were in jurisdictions that experienced hurricanes and large floods in 2018: South Carolina, North Carolina, and Texas.

**Private Flood Insurance, Premium Written 2016-2018**

© 2019 National Association of Insurance Commissioners
<table>
<thead>
<tr>
<th>State</th>
<th>Direct Premium Written 2018</th>
<th>Direct Premium Written 2017</th>
<th>Direct Premium Written 2016</th>
<th>Percent Change Premium Written 2017 to 2018</th>
<th>Percent Change Premium Written 2016 to 2018</th>
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<td>Direct Premium Written 2017</td>
<td>Direct Premium Written 2016</td>
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<td>$31,771,120</td>
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<td>99%</td>
</tr>
<tr>
<td>UT</td>
<td>$2,712,200</td>
<td>$1,958,666</td>
<td>$1,050,341</td>
<td>38%</td>
<td>158%</td>
</tr>
<tr>
<td>VA</td>
<td>$9,475,832</td>
<td>$8,527,381</td>
<td>$4,727,129</td>
<td>-11%</td>
<td>100%</td>
</tr>
<tr>
<td>VI</td>
<td>$37,329</td>
<td>$43,449</td>
<td>$122,459</td>
<td>-14%</td>
<td>-70%</td>
</tr>
<tr>
<td>VT</td>
<td>$698,550</td>
<td>$520,374</td>
<td>$297,124</td>
<td>34%</td>
<td>135%</td>
</tr>
<tr>
<td>WA</td>
<td>$12,061,004</td>
<td>$11,566,163</td>
<td>$9,609,189</td>
<td>4%</td>
<td>26%</td>
</tr>
<tr>
<td>WI</td>
<td>$5,896,222</td>
<td>$4,140,377</td>
<td>$2,300,499</td>
<td>42%</td>
<td>156%</td>
</tr>
<tr>
<td>WV</td>
<td>$1,804,872</td>
<td>$1,986,325</td>
<td>$1,614,061</td>
<td>-9%</td>
<td>12%</td>
</tr>
<tr>
<td>WY</td>
<td>$899,933</td>
<td>$959,541</td>
<td>$713,965</td>
<td>-6%</td>
<td>26%</td>
</tr>
<tr>
<td>Total</td>
<td>$643,879,997</td>
<td>$589,147,189</td>
<td>$376,130,254</td>
<td>9%</td>
<td>71%</td>
</tr>
</tbody>
</table>

As reported on Property & Casualty Annual Statement Blank, State Page, as of April 1, 2019

**Caveats**

It is important to understand a number of limitations within the Annual Statement data. The reported information is limited to only those insurers required to file a Property and Casualty Annual Statement with the NAIC. Insurers doing business as non-licensed or non-admitted insurers are known as surplus.
lines insurers. They serve as an alternative marketplace to provide coverage for unique exposures and often serve as a testing ground for product innovations before they are written by the admitted market. Domestic and foreign insurers are required to file the Annual Statement as they are considered an admitted insurer in at least one state. Alien insurers, which are domiciled outside the U.S., can choose to be licensed or admitted in one or more states if they wish. If they do choose to be licensed or admitted, then they too must file the Annual Statement. However, if an alien insurer decides not to become licensed in any state, the District of Columbia or U.S. territory, then no Annual Statement filing is required. The premium writings by alien surplus lines insurers are not included in the information contained in this report. Since we believe there may be a significant amount of premium written by alien surplus lines insurers, the reader should be cognizant of this potentially important missing element.

Frequently, early submissions of data are not complete or accurate. This should be considered when reviewing the inaugural 2016 as well as subsequent filings of private flood insurance data. It is possible companies that should have filed private flood insurance data separately on the State Page failed to do so, or did so inaccurately. Based on the history of other data additions to the Annual Statement, we expect the quality of the private flood insurance data to improve in subsequent years.

It should be noted the largest provider of flood insurance writes primarily commercial coverage for businesses rather than coverage for personal dwellings. This may be true of others. The data collected does not distinguish between commercial and residential exposures.

Recommendations

A major caveat contained in this report is the missing information on the amount of premium written by alien surplus lines insurers. Staff believes there are significant premium writings in this segment of the overall market. As the Catastrophe Insurance (C) Working Group continues to look at various state proposals and other suggestions to help guide efforts to develop a consistent approach to enhancing and facilitating growth of the emerging private flood insurance market, it may wish to consider a couple suggestions related to private flood data. First, the Working Group may wish to consider recommending that the Surplus Lines (C) Task Force make submission of private flood insurance data a condition for continuing to be listed on the Quarterly Listing of Alien Insurers. Secondly, the Working Group should explore potential revisions to the Annual Statement that would indicate differences between commercial and residential private flood coverage as well as instructions clarifying that premiums related to endorsements are desired as well as first-dollar coverage.

Conclusion

This report summarizes findings within the third submission of private flood insurance data. If information can be obtained from the alien surplus lines insurers, a more complete picture of the 56 U.S. private flood insurance markets will emerge. The quality of the data collected should also improve in subsequent years. It is expected the private flood insurance market will continue to grow, first in the surplus lines market,
and then in the admitted market. Having more complete and accurate data will provide regulators with important insight into the private market as it grows.