NATIONAL COUNCIL OF INSURANCE LEGISLATORS
JOINT STATE-FEDERAL RELATIONS & INTERNATIONAL INSURANCE ISSUES COMMITTEE
BOSTON, MASSACHUSETTS
JULY 15, 2021
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Joint State-Federal Relations & International insurance Issues Committee met at the Westin Boston Waterfront Hotel on Thursday, July 15, 2021 at 3:00 P.M. (EST)

Senator Jerry Klein (ND), NCOIL Chairman At Large, presided.

Other members of the Committee present were (* indicates virtual attendance via Zoom):

Rep. Deborah Ferguson (AR)
Sen. Mathew Pitsch (AR)
Asm. Ken Cooley (CA)*
Rep. Joe Fischer (KY)
Rep. Brenda Carter (MI)
Sen. Neil Breslin (NY)
Asm. Kevin Cahill (NY)
Sen. Bob Hackett (OH)*

Other legislators present were:

Rep. Steve Meskers (CT)
Rep. Tammy Nuccio (CT)
Sen. Spiros Mantzavinos (DE)
Rep. Roy Takumi (HI)
Rep. Terri Austin (IN)
Rep. Jim Gooch (KY)*
Sen. Katie Fry Hester (MD)*
Del. Courtney Watson (MD)
Rep. Kevin Coleman (MI)
Rep. Carlie Kotyza-Witthuhn (MN)
Sen. Paul Utke (MN)
Rep. Hank Zuber (MS)
Sen. Randy Burckhard (ND)
Sen. Shawn Vedaa (ND)
Asm. Ken Blankenbush (NY)
Rep. Brad Witt (OR)
Rep. Wendi Thomas (PA)

Also in attendance were:

Commissioner Tom Considine, NCOIL CEO
Will Melofchik, NCOIL General Counsel
Tess Badenhausen, Assistant Director of Administration, NCOIL Support Services, LLC

QUORUM

Upon a motion made by Rep. Joe Fischer (KY), NCOIL Secretary, and seconded by Rep. Brenda Carter (MI), the Committee voted without objection by way of a voice vote to waive the quorum requirement.

MINUTES

Upon a motion made by Asm. Ken Cooley (CA), NCOIL Vice President, and seconded by Rep. Fischer, the Committee voted without objection by way of a voice vote to adopt the minutes of the Committee’s April 16, 2021 meeting.

DISCUSSION ON IMPLEMENTATION OF THE SAFEGUARDING TOMORROW THROUGH ONGOING RISK MITIGATION (STORM) ACT AND POTENTIAL NCOIL MODEL ACT

Roderick Scott, Board Chair of the Flood Mitigation Industry Association (FMIA) thanked NCOIL for the invitation to speak as this proposed partnership of getting state model legislation for the retrofit of buildings in hazard's way is invaluable. On January 1, 2021 former President Trump signed into law the STORM Act which is now law to provide funds for multi hazard mitigation so that would be flood, wind, fire and earthquake. Hazard risks are one of the largest financial exposures we have in this country and our portion of that is the flood mitigation of buildings so that they don't flood and we can't stop flooding but we can sure get the buildings so they don't flood. We want to thank our partners the Federal Association for Insurance Reform (FAIR) which was instrumental in getting us contacted wit NCOIL - again we are the industry that fixes the buildings and we are not very familiar with the legislative process and we are eternally grateful for NCOIL's willingness to help look at drafting model legislation for the hundreds of billions of retrofit in this country in light of the changing climate – if we don't, we are going to lose.

Since 1980, there have been 265 weather and climate related events that have each cost $1 billion dollars or more in damages. We're at a quarter of a trillion dollars in losses in just that span of time and just last year my state of LA took four hurricanes, direct impacts, and my town had four floods but because I'm 86% elevated I was back in business in a week after four floods each time. Not only is flood risk increasing but flood insurance rates on the estimated three or four million buildings is going out of sight and is going to continue to reach actuarial rate in five years for all buildings except your primary residence - 11 years for your primary residence. If you are four feet below the base flood elevation today – remember that is going to change on the coast as the sea continues to rise – you'll be at $9,500 per year so compute that out for a 30 year mortgage. We have to retrofit our nation.

Mitigation reduces risk. This is what my town locks like now except for ten buildings left on the ground. We have to live above the water or dry flood proof our buildings or we are going to lose. This is FL. Florida has an estimated 600,000 of these buildings that will require retrofit or replacement with new construction. NY has 400,000, NJ has 400,000 and TX has 300,000. It goes on and on. There are three to four million old buildings – the banks in our country estimate a $1.5 trillion asset value. Our industry can retrofit these buildings, wet and dry flood proof them, and elevate them. We estimate the cost at about half of that asset value – $600 billion and we hope to create with the STORM Act a million jobs in the construction trades within the next 10-15 years – or we lose. In May of 2019 our industry was invited to a closed meeting in the Treasury building. During the meeting we had nothing but banks and mortgagors around that table and I was there to assure them we would keep up if we had financing - we don't have financing for this and that's the problem. At the end, here's the promise – this building is in Key West – a concrete block building elevated 4.5 feet and it went from $3,500 a year to $500 a year for flood insurance.

At the end of the meeting the banks basically with our assurance as an industry told the treasury that if a loan became available they would loan the federal gov't the $600 billion that we would need to mitigate these three to four million buildings – an asset value at $1.5 trillion. So the STORM Act we have to create a revolving loan program at the state level and then we are going to have to create a revolving loan program, with National Association of Counties (NACO's) help, at the taxing authority. We must have a restricted fund within these programs to keep the extreme external forces of the traditional construction and, basically the levy and drainage contractors, the traditional infrastructure for mitigation hands off this one. The banks are not going to loan us this money if we don't protect the money just for the buildings - that's their business is buildings they are not interested in loaning us money for other infrastructure which we do need to revenue bond or find other ways to fund and I remind people that 50 cents of every tax dollar from a property goes to a school.

Today's presenters on our program are the authors of this legislation. Collin Wellenkamp, Executive Director of The Mississippi River Cities & Towns Initiative (MRCTI) will speak – 10 states along that mighty river got together and talked to their Senators and Representatives and they passed this bill that we have been figuring out how to do only its multi hazard. It passed on a voice vote on the last day of the 161th Congress. Maryland Senator Katie Fry Hester, the sponsor of the 2021 legislation that passed in MD their state revolving loan program, will speak – it has become a cornerstone of our draft legislation and we have some improvements and different ideas to add to that legislation. Their legislation was crafted as a result of that giant Building Resilient Infrastructure and Communities (BRIC) program coming from the Federal Emergency Management Agency (FEMA) and we want the bank money to come in and go to the property owners and then we have this whole issue of low income -we have 300,000 low income family housing units in the flood zones in this country the least able to recover and the most vulnerable of our population. Tom Little, Co-owner and Exec. VP of Smart Vent Products, Inc., Floodproofing.com, and Smart Product Innovations, will hit cleanup and he owns a leading company in the flood mitigation industry and has become vertically integrated from doing just flood vents to selling flood insurance as well as a whole host of flood mitigation products. It's a growing industry.

Mr. Wellenkemp thanked everyone for the opportunity and noted that he is am on site today in the field and situated behind me is the MI river and out this way directly toward my hand is Grafton, IL and I am on the MO side of the Mississippi. Grafton is really a poster child city of actually this entire region of the MI which is near the confluence of the IL, MS and MO rivers just north of St. Louis – it's a poster child city for repetitive loss and the need to build resiliency into our infrastructure and our economy. When our mayors sat down to draft the resilient revolving loan fund or what came to be known as the STORM act this is what we had in mind. We had flooding, droughts, intense heat, named storms and unnamed storm events that had been impacting our region along the MI river at a record level with record persistence. We are now averaging brand new records every 24 months with both extreme heat temperature, duration of those temperatures and floods. The last big moment we had was not too long ago – 2019 we had a 270 day flood. It was the largest and longest in U.S. record history which took place from PA to OK southern MN to NO. It was truly a basin wide event impacting almost all of the major tributaries of the MI river – an eight month duration and it cost us $20 billion in actual losses.

And that flood comes on the heels of lots of other ones preceding it. A thousand year flood event in the south in 2016; the flood of 2015; the flood of 2011; the drought of 2012. And then all of the hurricanes of course in between,. We could go on and on with that but what we're really trying to do is get away from impacts and the very expensive end of the balance sheet of dealing with recovery and response and instead deal with mitigation adaptation and resilience which actually saves us up to $12 for every dollar we put into it for the economy. We think that end of the balance sheet is a much safer bet and apparently so does Congress. Not only did they pass the STORM Act but they have also put in upwards of half a billion dollars of new investment into resilience taking that away from the very expensive activities of response and recovery and hoping that if we invest before that we won't have to get to those very expensive steps. We are an association of 1,010 mayors in all 10 states and we are currently led by the mayors of Baton Rouge, LA and Bettendorf, IA. We are headquartered in St. Louis, MO and I'm not too far from there right now. If you can imagine in 2019 everywhere where I'm standing right now was underwater in fact I would be underwater right now if I was standing there right here in Spring/early Summer of 2019 it would be a couple feet above my head as a matter of fact and in 1993 it would even be further above my head. The city of Grafton received significant damage and in 2019 they got 80% of their community wiped out by that flood and many of our cities did and then came the STORM Act which was a way our cities could accomplish a few things.

One, we could get out of the cycle of having to apply to grant after grant on the federal level since most of the time they are not sufficient in getting the grants as they are extremely administrative heavy and expensive to apply for. Most of our cities don't have either the capacity or expertise to really do that credibly. The other thing we wanted to do was figure out a way when we invest in a resilience project that the investment actually goes to the resilience project so they aren't separated but built on each other and building on each other for capacity and physical attributes but also building on each other financially - so the revolving loan fund model seemed like a good way to approach that. Thirdly, we really wanted to figure out a way we could incentivize projects that concentrate not just on the built infrastructure but the natural infrastructure. I'm actually standing right here in the middle of a floodplain that isn't developed and right around the corner from me on the other side of the island Grafton, IL has installed a wetland it used to be there and was destroyed long ago and they are putting it back in order to create a natural flood buffer for their city.

Just up there you can see upriver we are actually putting in more floodplain and more habitat and more backwater areas that are linked up with a partnership with Ducks Unlimited to naturally take in risk and absorb impacts from climate change and disasters before they can get go to our cities and then let those impacts go at a managed level over time after the storm and disaster ends. That natural infrastructure is actually called out as a priority in the legislation the STORM act. As Mr. Scott said, a lot of this is to protect our built environment. The buildings are the most expensive implicated infrastructure impacted by these disasters and its hard for us to be able to finance any other solutions that might be hard-structure so levees, flood walls and other brick and mortar infrastructures to stop these disasters is really outside of our financial capacity. Not only would we not be able to afford to build it we wouldn't be able to afford to maintain it either so natural infrastructure is the only thing we can afford and the beauty of it is is that it comes with ancillary benefits and we don't have to pay to maintain it. A wetland and marsh not only do those things to help with disasters they also clean out water and regulate water in dry periods when the river is very low in order keep navigation more reliable and its just as hard to get to a flooded elevator for grain as it is to get to one that has no water around it all because of a drought. Natural infrastructure can help us regulate that much more efficiently than we ever could with pipes and pumps.

Also, natural infrastructure is a tourist draw and people pay to look at water but they don't want to pay to look at dry smelly water so the cruise industry, the outdoor rec industry and the tourney fishing industry all are helped by increased ecology and natural infrastructure because they create draw for those tourism and outdoor rec dollars. Finally, we are using this water for a heck of a lot of manufacturing so we need it fresh and clean all the time and we need it freely accessible all the time in order to power that manufacturing economy on the MI r river. All told, our corridor enjoys a $456 billion dollar fresh water economy and we need clean fresh water to keep help that happening and need a reliable system that's ecology healthy and economically supported and backed up to help keep that economy going. The resilience revolving loan fund we think is another great tool in the toolbox to help make that happen. States are key so this is going to be partnership between the federal gov't, in this instance from state emergency managers and local cities and counties. When the resilience revolving loan fund applications hit the street which we think will be in the spring there will be an opportunity for states to compete for a capitalization grant form FEMA to form this resilience revolving loan fund within their states that our cities can apply for the project. But the administrative lift in all of this is purposefully kept light so the projects themselves really fly or don't fly and sink or swim on the merit of the ability or repay the loan and we like that much better the administrative lift that comes with traditional FEMA grants which is usually out of our reach.

Sen. Hester first acknowledged her colleague Del. Courtney Watson who is in Boston in the room. They were both elected in 2018 and have worked on several pieces of resilience legislation together so if you have any question please feel free to approach her in person as she is an expert in this. The first slides you see are of Ellicott City MD which is in my town and many of you have seen it on the news. It will celebrate its 250th birthday this year and in July 2016 we suffered our fist 1,000 year storm and it brought over six inches of rain on the hills in less than 90 minutes and the result was a flash flood that caused an estimated $11 million in damage and took the life of two or our community members and I can't stress enough the level of psychological trauma that the residents and business owners of the city suffered in addition to the monetary damage. But we rebuilt and in 2018 the city reponed and life was coming back to normal and then we had our second 1,000 year storm in May 2018 which is less than two years apart. That storm dropped 8.4 inches on the city over the span of two hours and this time caused $27 million in damage and took the life of another one of our community members so from personal experience we can tell you that climate change is real and resilience is the key to success.

Maryland is a coastal city and we suffer flooding all over the place. Ocean city is of course a great tourist destination and it repeatedly suffers flooding as does Annapolis so having experience the flooding first hand but also thinking about the state as a whole we really started to look for statewide solutions. What I found working both with county execs and also our local emergency managers is that the major barrier to rebuilding after a flood was the cost. Let alone trying to build before a flood, to prevent future floods the financial barrier that the prior speakers talked about is real at every level of state gov't. What you're looking at is a map of Ellicott City and just to explain the complexity of the financial cost associated with building back those red dots on the slide each represent a resilience project and there's 19 in total. Some are retention ponds some are culvert expansion. There is a bypass pipe that is over 9 feet wide on the western side and there is also a 10 acre retention facility and then of course the pinnacle of this safe and sound plan is the 15 foot diameter tunnel boar to be built through the south hill district to create a shunt from the top of the hill directly to the river at the bottom and so such large infrastructure of course costs money and to implement all 19 pieces is projected to cost $140 million. For a small municipality like Ellicott City its dependent on our ability to pull money down from the state and federal level.

Throughout this process I was looking for capital in our state budget and capital at the federal level and that's originally why I was able to see FEMA's BRIC plans and so I was thrilled to learn that the round of funding will be coming again to allow states to protect their communities especially those like mine and we were in the process of trying to see how to leverage the funding from the BRIC program when we came up with a legislative solution to fill that gap. The next slide is the actual legislation that we drafted and originally we came up with this idea to crate the resilient MD revolving loan fund and modeled it after the state's clean water revolving loan fund before we had even heard of the STORM act. We had been studying infrastructure banks and impact bonds for several months and in December before our legislative session we had settled on the idea that a revolving loan fund to assist our local jurisdictions for the local match to the BRIC fund was what we needed to get the finance flowing.

A week after the federal gov't passed the STORM act so we rewrote the bill and submitted it to accept the money that the STORM act makes possible. So, SB9081 creates the MD resilient revolving loan fund and it sits within the MD emergency mgmt. agency which is now known as the MD dep't of emergency mgmt. for the purpose of providing low or no interest loans for local resilience projects either through a local govt or a nonprofit. The fund is a special non lapsing fund so the money held in it does not revert to the general fund. Additionally there is uncodified language directing MD to apply for funding thought the STORM act to capitalize the fund as soon as the funds become available. When you see the legislation you will also notice that there was $25 million of state funds that we put in the original bill to match the STORM act those funds were later removed because we put the $25 million in the capital budget in order to secure those in the capital budget process but the budget passed before the legislation did so when I was defending the bill I said listen you already passed the money now we just need to create the fund but the $25 million of state funding will allow us to draw down $225 million through the STORM act.

The next slide is how the leveraging could work. Hypothetically, loans from the MD revolving loan fund, local govt's can pull down $750 million of federal BRIC funding for a total inflow into the state of $1 billion. Now this is obviously best case scenario but ill break it down. The $25 million of capital funds is matched 90-10 with the STORM act so that turns into $250 million then the BRIC funding grants are 3:1 so if a county had a $10 million loan they could pull down $30 million in a grant through BRIC for more and that's how you get to the $1 billion. On the last slide I wanted to share a few keys to success. The first key was really the broad impact of flooding and natural disaster in MD. Unfortunately or fortunately all of my colleagues in the senate and house in every jurisdiction had experienced flooding and they knew they could save money by building the resilience of towns and communities and there was broad support for the idea that we could do something. Second, the availability of these federal funds made a huge difference in our ability to press the legislation through in one year as its just so much easier to explain the value proposition through the budget appropriations cmte when there is federal money on the table. Finally, I couldn't have done this without incredible partnerships including our Treasurer Nancy Kopp who has been a true advocate for climate change and resiliency legislation over the years. I also want to applaud Del. Watson and the leadership in our senate and house who were great and I really feel the timing was right as the federal tools were there and so was the political will to move boldly forward so I am delighted its passed and now we're just waiting for the capitalization of the first MD revolving loan fund.

Mr. Little sated that his organization is an example, and we have a portfolio of companies, that are all laser focused on solving flood problems and we started our journey in flood protection and mitigation back in 1997 with the development of a product called Smartvent which is an engineered flood vent that is designed to revile pressure and forces against the foundation of the wall as those forces can cause the foundation to collapse and it does a number of things – it causes significant structural damage which translates into a flood insurance claim if in fact they have flood insurance but also it displaces the family. The same thing on the commercial side there are vulnerabilities when flood water comes through doorways or windows and other penetrations of the commercial building that can shut the business down so at a very high level when we solve problems our mission is to keep families from being displaced from their homes and to keep commercial businesses open to maintain business continuity and keep the lights on at the end of the day so we started with the flood vent product tin 1997 but we realized that there were other needs within the industry and part of the introduction that Mr. Scott provided in the beginning explained that we have vertically integrated over the years and today we have five companies within our portfolio that handle flood protection with wet flood proofing techniques like a flood vent, dry flood proofing techniques like barriers and shields from preventing the water from getting into a building and then we pull that all together with a company that sells flood insurance nationally. We provide the NFIP to our customers but we also have worked with private carries in the industry to provide their product and coverage in certain situations.

It was mentioned earlier that every dollar spent in resiliency or mitigation can translate to $12 in actual savings later. And what we are experts at are the buildings and the homes. We are direct with those building owners and those residential structures and we're working on a level where we would utilize a revolving loan program and our customers would be able to mitigate their particular property. Part of our evolution has been that we have developed strategies and techniques that will mitigate just about any structure in the U.S. - residential and commercial. And we developed a service called the flood design team where we are capable of doing a vulnerability study at the structure level to determine what type of techniques can be utilized to mitigate the risk. In some cases its utilizing flood vents with elevated structures that Mr. Scott mentioned and the flood vents would go around to relieve the pressure and potentially save a $35k plus claim.

Likewise on a commercial structure we have ways to put barriers and shields in place to prevent the flood water from entering into the building - some of those are deployable systems which need human intervention but we have developed innovative technology to do that passively. In MD, Ellicott City was mentioned and we are working there with passive flood proof systems that go into a building that are much like set it and forget it where the glass is flood proof and can take an impact and up to 10 feet of flood water against and keep the inside dry. We employ 40 individuals and we also have manufacturing lines for our products that are all made in the U.S. that we deploy another 20 folks on those lines by building our products in the U.S. Scalability is there. We can manufacture more products and we can protect more homes and buildings and that comes down to the families and the economic side of items as well if this funding were to be able to be in place.

Lastly I wanted to share a quick story of a property owner along the IL river that we helped out five years ago - a 28 year veteran of the air force. He purchased his home in a flood plain and it was an elevated home and his flood insurance premium was on the rise and it was getting to the point where he was not going to be able to afford to stay in the home because he could not afford the flood insurance. He spent two years figuring out a way to lower the premium and save the house and he contacted us and we determined the solution is to retrofit flood vents into the foundation and the NFIP provides you with a flood insurance discount if you do that in your scenario. The flood vents were put in and it reduced the premium 75%. Since the installation he has flooded five times and has had 0 NFIP claims and suffered no structural damage and is still in the home and was able to marry is daughter at the house. That shows what our industry can do we can keep these folks in their homes and lower their premiums with mitigation that the NFIP recognizes and the pvt sector recognizes and we can do it residentially and commercially on the building level with a revolving loan program.

Mr. Scott thanked NCOIL again and stated he looks forward to the meeting in Scottsdale and looks forward to working with legislators to get legislation introduced in 2022 to finance the STORM act.

THE NATIONAL FLOOD INSURANCE PROGRAM'S (NFIP) NEW RATING METHODOLOGY – RISK RATING 2.0: EQUITY IN ACTION

Tony Hake, Director of NFIP Transformation, thanked the Committee for the opportunity and said its great to be here to talk to all of you about the NFIP's new pricing methodology, risk rating 2.0: equity in action, and what the new system means for your constituents and other interests that may be connected to the NFIP. I've been listening for the last 30 minutes and there are lot of links to this and interest in this. FEMA still believes that insurance is the best defense for flooding of all property types. Equity in action is a transformative effort that will help FEMA achieve its mission and pursue equity in pricing for all of our policyholders. As you are well aware, rates already increase under the current NFIP rating methodology and under risk rating 2.0 rates are going to increase for some policyholders and also rates will decrease for some policyholders. Policyholders who will see increases under the new methodology plan fundamentally differ from the rate increases under the current rating methodology. As I said before currently all NFIP policyholders have been subject to premium increases every year.

From 2018 to January 2021, the average annual premium increases under the current methodology had been around $10. These yearly increase are in line with the statutory limits set forth by Congress and would continue to occur year after year for all policyholders if no changes were made. However, under the new pricing methodology rate increases will not continue indefinitely. So once a policy reaches its full risk rate the increase stops so its important to note the new plan will comply with all statutory and regulatory requirements including premium caps currently in place. Under equity in action two thirds of all the older homes which are currently paying some of the highest premiums will see immediate premium decreases. I'll speak later as to what those change look like across the nation.

The change will address the inequality in the program that has inadvertently developed over time and must be corrected - that is policyholders with lower value homes are paying more than they should and policyholders with higher value homes are paying less than they should. So this enables FEMA to set rates that are fair and ensures rate increases and decreases are both equitable. In fact like I said before we've learned two thirds of the older homes that have some of the highest rates in the NFIP today will see immediate decreases in the cost of their insurance. The new rating methodology has exposed these inequalities and we've not turned a blind eye to our policyholders who have been unjustly subsidizing other policyholders. In addition because our rating methodology hasn't been updated in over 40 years its not financially sustainable in its present form to withstand the frequency and intensity of recent events and the storms that we know will strike in the months and years ahead due to climate change. FEMA has the statutory mandate to set actuarially sound rates and clearly communicate that risk. It's a well known fact that FEMA has been urged for many years by many different people to improve its pricing methodology. Our current system is just fundamentally not working for the program or our policyholders and must be revamped. While difficult, now is the time.

So since the 1970s rates have primarily been based on rather static measurements emphasizing a property's elevation within a flood zone on a flood insurance rate map. This approach does not incorporate as many variables as the new methodology. As such, the new methodology is not just a minor improvement but a transformational leap forward. Under risk rating 2.0 FEMA now has the capability and tools to address rating discrepancies by incorporating more flood risk rating variables like flood frequency, multiple flood types from river overflow, storm surge, heavy rainfall, coastal erosion, and the distance to a water source along with property characteristics such as elevation and the cost to rebuild. Now that the new methodology takes into consideration the cost to rebuild, FEMA will be able to equitably issue premiums across all policyholders based on the unique risk of their food property. So previously it was done by a zone an AE zone across the nation it was all treated the same so we know now it will be unique based on the individual property. Equity in action will be based on years of investment of flood hazard mitigation by incorporating pvt sector data sets, catastrophe models and evolving actuarial science. This includes using existing FEMA mapping data and NFIP policy and claims data along with federal govt data from the U.S. Geological Survey (USGS), the National Oceanic and Atmospheric Administration (NOAA), and the U.S. Army Corps of Engineers. In addition third party commercially available structural and replacement cost data along with cat models is incorporated. This approach is clearly an a significant improvement and allows us to set actuarially sound rates and communicate the flood risk more comprehensively than ever before.

So lets break down what risk rating 2.0 equity in action really is as it fits into three big buckets and those buckets are what's staying, what's going and what's changing when comes to the new pricing methodology. First, its important to keep in mind that risk rating 2.0 is really about changing how we rate premiums so what it doesn't do is make changes to the policy forms or the coverage policyholders will receive. In terms of the policy forms there are three main types of forms right now – dwellings, general properties and residential condominium building Assoc policies. They'll continue to exist under the new methodology however you may notice there are a couple of minor changes to those forms but its important to note that those changes are with respect to legislation FEMA is implementing as part of the Biggert-Waters Act. In terms of policy coverages there will be no change. For instance a single family home policy continues to have limits of $250,000 for the structure and $100,000 for contents. So risk rating 2.0 is transformational but its not changing every aspect of the NFIP. We are upholding the statutory requirements by limiting the premium increases as the existing statutory requirements state that most rates not increase or climb by more than 18% per year. We're also maintaining the use of the flood insurance rate maps for mandatory purchase as well as flood plain mgmt. purposes. In addition we will continue to offer premium discounts for pre subsidized and newly mapped properties as well as policyholders will still be able to transfer their discount to a new owner by assigning their flood insurance policy when the property owner changes. Furthermore, discounts for policyholders in communities that participate in the community rating system or CRS will continue. Communities will continue to earn the NFIP percent rate discounts of 5-45% based on the CRS classification. However, a point to note is that since risk rating 2.0 does not use flood zones to determine flood risk the discount will be applied uniformly to all policies throughout the participating community regardless of whether the structure is inside or outside the special flood hazard area.

So what's going? Under risk rating 2.0, preferred risk policies will be rated similar to how FEMA rates all other polices. You'll see this phenomenon more generally with how we rate. Since FEMA will be able to differentiate flood risks in areas outside the high risk flood zones there will no longer be the need for the agency to offer preferred risk policies (PRP). Also under the new methodology coverage and deductible limitations will no longer be limited to PRPs. For instance today a single family home PRP policyholder can select $200,000 in building coverage and $80,000 in contents or $250,000 in building and $100,000 in contents and no other options. Under risk rating 2.0 they can select limits and deductibles like any other standard flood hazard policy. Furthermore, under the new methodology FEMA will no longer offer the mortgage portfolio protection program since it is rarely utilized. This is a perfect example of FEMA's mission to align with our modern data principles to simplify things where it makes sense. Additionally, under the existing methodology, flood zones are the main driver of the rate as I mentioned before. This is not the case with risk rating 2.0 - for the most part the flood zone is not used for the rating in the new methodology but there are a couple of places where we are statutorily required to use flood zones under risk rating 2.0 and they include AR zones, A99 zones, and newly mapped zones. Also, under the new methodology its important to note that the base flood elevation will continue to be used for floodplain mgmt. purposes but not for insurance rating. There are two reasons for this. First, we're using elevation nationwide and BFE doesn't work nationwide. Second, we are looking to simplify our program and use concepts that the average agent or policyholder can understand and we think ground elevation is easier to understand than an unseeable base elevation line.

Sen. Klein noted we are up against clock and asked Mr. Hake to hit on a few more points and if there is more information we can discuss this at our next meeting.

Mr. Hake stated that it's important to note that even with the policyholders paying the most today they will see significant and immediate decreases when they transition to the new pricing plan. Broadly, over 1 million policyholders will see decreases and that includes 600,000 single family homes. At the extreme, 3,000 family policyholders pay premiums from $12,000 to $45,000 a year today under the current methodology and these policies are located all across the country. Again, under this process these premiums will continue to increase year after year but the big thing with risk rating 2.0 is that there is an upward bound for those polices as no single family home will pay more than $12,125 in a premium which sounds high but today some are paying $45,000. Let's take a quick look at the national analysis for structures in the NFIP's book of business. This includes single family homes, non singly family homes, leveed and non leveed for all 5 million policies across the 50 states and DC and the territories. Here is what the new data tells us – 23% of current policyholders will see immediate deceases in their premiums – on average this will be $86 per month and $1,032 per year – that doesn't happen under the current rating system. The next category will see an increase of $0-10 per month but keep in mind that I said before - under the current system there is a 10% increase annually which equates to $8 per month under the current system so this 66% the change for some will be $2 per month so the impact between the old and new is minimal. Then there is another 7% where there is a $10-20 month increase in what they are paying. This analysis of the new pricing system shows we have eliminated a lot of the steep gaps and sharp increases that had caused uncertainty with these folks. Finally there is 4% of the NFIP policyholders who will see a $20 or more per month increase in premiums but its important to note that these policies cover high value homes in high value areas.

Sen. Klein stated that this needs to be the final slide as we are out of time and we have two more presenters. Sen. Klein asked Mr. Hake for a final statement. Mr. Hake state that during the hearings we had many senators, bipartisan, support risk rating 2.0 and we've had numerous state flood insurance cmsrs. support it and we have had direct support from the National Association of Realtors (NAR) as well as PEW. If there are any questions please submit them to FEMA and if we need to spend more time on this in the future I look forward to it. Sen. Klein stated that this issue is certainly not going away as we are on the cusp of new innovative thoughts and ideas and we'll continue this in the future.

DISCUSSION ON THE PROTECTING THE RIGHT TO ORGANIZE (PRO) ACT (H.R. 842/S.420)

Catherine Fisk, Barbara Nachtrieb Armstrong Professor of Law at UC Berkley School of Law stated that she is delighted to be here and noted that she was asked to describe the provisions and the possible impact of the PRO act which was passed by the House in March and currently is in the Senate. It is unlikely to be passed unless the Senate is to eliminate the filibuster but let me tell you what it would do if it was enacted and I'm happy to talk about what impact that might have for the issues that concern you. To be clear the PRO act covers only the right to unionize, bargain collectively and engage in work related protests in the private sector and it will have no impact on gov't employment and it would have no impact on federal or state regulation of wage and hour law, workplace safety, unemployment insurance or discrimination. The only provision it has that really has nothing to do most immediately with unionization is that it would significantly revise the federal arbitration act which is the federal statute that allows employers to insist as a condition of employment that individual non union employees sign agreements to arbitrate all disputes arising out of the employment relationship. The PRO act if enacted would prohibit mandatory that is forced pre dispute arbitration agreements broadly in pvt sector employment which of course would have a fairly significant impact because many businesses have adopted such pre dispute arbitration agreements as much as a way to prevent employment claims from being filed as a way to channel those that exist into arbitration.

But focusing on the union side of the PRO act it would expand the number of workers who are protected by federal labor law. It would for example make low level supervisors think of a barista at Starbucks or a clerk at a convenience store who now could be characterized as supervisors and therefore not covered by protections of labor law it would make those workers employees eligible to vote in union elections and protected against retaliatory firings if they supported or opposed a union election. In addition, the PRO act would expand the number of covered employees by narrowing the definition of who is an independent contractor. You may have heard that many states use what is known as the ABC test to define how is an independent contactor exempt from state unemployment insurance (UI) protections for example but there has been a lot of controversy over whether the ABC test should be applied outside the context of UI. The PRO act would say that the test applies to determine who is protected by the right to unionize and bargain collectively which I call labor law – it's called the ABC test because only those workers who are truly A – autonomous that is free from any kind of employer control; B – who are in business or performing a business outside of the usual scope of the employers business – think the guy who comes to repair the HAVC system at a retail store is not engaged in the employer's business but is engaged in a totally separate line of business; and C - those who are customarily engaged in an independent business of their own providing the same service like an HVAC contractor like a gardener but not like a driver of an app based car dispatch service like uber.

So by adopting the ABC test for labor law the definition of who is an independent contactor would be significantly narrowed and the scope of protections for employees would be significantly broadened. Another major thing the PRO act would do is expand the right to protest about work related matters. Here what the statute would do is repeal many of the provisions of the Taft Hartley Act of 1947 which radically restricted at the time in the name of anti-communism the kinds of protests that labor organizations can engage in. Specifically what it would so is that it would expand the right to strike by eliminating a provision or an interpretation of the law that the Supreme Court added which allows employees to permanently replace striking employees. Permanent replacement of striking employees is as a practical matter firing a striking employee in many circumstances so by taking away the right to permanently replace a striking worker it would protect strikers from retaliation for striking. Second the PRO act would eliminate the ability of employers to lock out employees as a way of resolving negotiating disputes. Lockouts don't happen much anymore except in the context of professional sprots because long strikes are so unusual because of the employer's ability to permanently replace striking workers so by eliminating permanent replacement and eliminating lockouts we would likely see more strikes to resolve negotiating disputes.

Third under this provision of the PRO act it would eliminate the Taft-Hartley prohibition on secondary boycotts which is a complex concept but to understand it think of janitorial staff cleaning an office budling who are protesting sexual harassment by their employer. Their employer is technically the owner of the small janitorial company that has a contract with the building maintenance company that has a contract the property mgmt company. If the janitors stand on the sidewalk protesting sexual harassment and seek the support of for example employees of the tenants in the commercial office building the National Labor Relations board (NLRB) has held that they are engaged in a secondary boycott or strike because they are appealing to employees of an employer other than their own. The prohibition on secondary boycotts is wildly controversial in the labor movement and by eliminating it what we might see is more solidarity whether it's a product boycott or a strike among workers of different employers. The PRO act would also eliminate the prohibition on striking or picketing to publicize that workers are seeking to organize or are seeking recognition from an employer. Sen. Klein stated that we are running out of time and we have more presenters so please make a couple of more points and summarize your final thoughts.

Prof. Fisk stated that the rest of the provisions of the PRO act would regulate the process of union elections by making them more two-sided that is giving employees greater rights to talk to each other and would eliminate state right to work laws that is laws that prohibit employers and unions from agreeing to charge union rep workers a fee for the services that they provide. It would expand remedies for violations of protected labor laws by creating a civil cause if action - you don't have to go through the NLRB, and expand civil penalties that aren't just a measure of back pay and would provide for mediation and ultimately arbitration for a negotiating dispute involving newly certified unions seeking to get a contract. What all this would mean is expanded labor rights would probably increase labor costs that is raise wages and that might have a variety of financial impacts but it would only do so in those industries where workers are interested in unionizing.

Meaghan Gale, Policy Director of Gov't Relations at the National Association of Insurance and Financial Advisors (NAIFA) stated that NAIFA is the preeminent membership association of financial and insurance professionals in the United States, representing a full spectrum of financial services practice specialties. Our members work with families and businesses to help them achieve financial security. NAIFA has 53 state and territorial chapters and 35 large metropolitan local chapters. NAIFA members in every congressional district advocate on behalf of producers and consumers at the state, interstate and federal levels. We're here not only to give a producer's perspective on the PRO act but also to talk about the importance of independent contractor status for independent broker dealers and independent financial advisors. We agree with many of the points that Prof. Fisk highlighted today and we strongly support better working conditions for exploited gig economy workers and while we recognize the PRO act is limited to the right to organize and that the bill is ensuring that marginalized workers have adequate benefits and bargaining rights to their employers we feel that it simply misses the mark for the insurance and fin serv industry and the hundreds and thousands of independent broker dealers and independent financial advisors who have built their livelihood on the independent contractor model.

The PRO act would amend the National Labor Relations act by adding the language that expands the definition of independent contractor by adopting the ABC test that Prof. Fisk spoke about. It expands it to the employee and is largely patterned after the CA AB 5 legislation which ill touch on again shortly. Our primary concern is that the PRO act uses the ABC test and that workers must meet all three criteria to be considered an independent contractor. The real crux of the problem is part B – that the work performed outside the usual course of hiring in the entity's business. Since the insurance industry has long relied on quite successfully on independent insurance agents to offer a vast variety of financial products as possible to the consumers we likely fail part B and trigger the employee classification. We are the dreaded unintended consequence that is all too common in overly simplified models. If the ABC test were confined to the PRO act then perhaps we wouldn't be up here talking about it but the test is starting to gain traction and if it were to become the standard then there would be significant consequences down the road. We are already seeing it used in Senator Wyden's proposal for UI; the DOL is working to redefine independent contractor and is expected to use a version; and numerous states have already adopted or are seeking to adopt a version. This legislation opens the door for further policies that could negatively harm the way insurance carriers and producers best see fit to maintain their business structures. Producers could be caught in a quagmire of conflicting and uncertain employment status.

I want to restate that we are not categorically oppose to this type of legislation and we recognize and support the need of many industries for this type of protection but even in a state that is progressively pro labor as CA, lawmakers recognized that insurance and fin serv did not warrant inclusion in CA AB5 . NAIFA national, our CA chapters and our industry partners worked very closely with CA legislators to draft language and include a carve out. The language is very important to note. As an industry we are not looking to escape oversight or regulation. Rather, just to keep that the oversight with the entity that currently performs these functions like the state insurance and securities regulators or the SEC. There are a lot of reasons beyond those that we have touched on already for why this rule is not a good fit our industry but the core is that the insurance and fin serv industry has a very different independent contractor model than the uber, lyft, doordash gig economy.

Our agents do not work in short, fragmented or episodic manners that you see in many of those industries and the insurance and fin serv industry is already one of the most regulated industries in the world. Almost every aspect of agent and producer consumer relationship is subject to scrutiny oversight and often approval. Additionally, the entrepreneurial nature of the work is often what attracts producers to the business. Many use it as a second career and are intentionally leaving an employer employee relationship and that structure works for them and the industry which has been able to operate on this model successfully for decades without significant complaints. Many independent insurance agents and independent financial advisors hold long term contracts with 20 carriers to expand their product offering. Employee status could reduce the number of products in their portfolio which would ultimately mean less choice and higher prices for consumers. Its really important to note that our industry is not asking for this. NAIFA conducted a survey of over 1,000 of our members across the country representing a broad swath of practice types, ages and tenures in the industry and the results were very clear – they are happy with their current employment classification and do not wish to change it even for the right to organize. Legislation should not force a relationship between carriers and producers that they do not want.

Joshua O'Gara, NAIFA-MA President; Insurance & Benefits Advisor at O'Gara Financial Group, stated that we want to emphasize the fact that we are not in opposition to the bill. We are not anti-union. As Ms. Gale referenced many people in the insurance business are career changers – there are few people who grow up saying I want to be an insurance agent. Part of my path into the insurance industry was I actually spent some time working at UPS – I am a proud card holder of the teamsters union from that time and I still have that card. So I have a lot of experience with both that employer employee relationship and the reason why I started my own practice was that independence I was looking for. As Ms. Gale alluded to I have contracts with multiple different insurance companies and ultimately NAIFA has about 400 members in MA and 20,000 across the country and we are all small business owners. It's a 100% volunteer organization but really this boils down to a consumer choice issue. If we get wrapped up into the PRO act to the point where we become w2 employees and there is an employer-employee relationship with each carrier that we have contracts with we just wouldn't be able to offer the same sort of choice to the client that we work with so that's really the most important issue here regardless of how I feel of being an independent contractor and being able to run my practice the way I see fit its really about maintaining consumer choice and insurance ownership right now is at probably some of the lowest levels its ever been and there are not enough people in our business right now as we have dealt with a lot of regulatory change over the last 5-10 years that have completely changed the way my business looks. I got into this business in 2006 and my practice looks completely different now than when I started. I started as an agent with NW mutual again in that employee employer relationship not to say there is anything wrong with that – and that's still out there for people who want to have that option what we're asking for is an exemption specifically for our industry because I think its warranted as it was an exception that was provided for in the CA regulation and we would like the same consideration for the PRO act at the federal level as well.

Sen. Klein thanked NAIFA for their comments and noted that he understands their concerns as there is a tremendous amount of regulation in their industry.

ANY OTHER BUSINESS

Paul Martin, VP of State Relations at the Reinsurance Association of America (RAA), stated that you will recall in our discussion in Charleston regarding the NCOIL Division Model I mentioned that Sen. Jason Rapert (AR), NCOIL Immediate Past President, was running the NCOIL Insurance Business Transfer Model in Arkansas. When working with him and the AR Insurance Dep't we have made some minor improvements to the model and in the coming months we would like to have those discussions with the cmte so that when we are in Scottsdale in November we can reopen the Model and hopefully make some improvements to it.

ADJOURNMENT

Hearing no further business, upon a motion made by Asm. Cooley and seconded by Asm. Kevin Cahill (NY), NCOIL Treasurer, the Committee adjourned at 4:15 p.m.