



# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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## **Office of the Commissioner of Insurance Property and Casualty Advisory Council**

### **Minutes October 10, 2008**

Council members present: Jim Thomas, Society Insurance a Mutual Company, Brian Peacy, Employers Insurance Company of Wausau, Steve Tauke, M&I Corporation, Maryelyn Geisler, American Family Mutual Insurance Company, Brad Bodden, Brad Bodden Insurance Agency, Mary Kaiser, Spectrum Insurance Group, Lemuel Eaton, Metro Milwaukee Fair Housing Council, John Duwell, West Bend Mutual Insurance Company and Bill Smith, National Federation of Independent Business.

OCI representatives present: Deputy Commissioner Kim Shaul, Jean Terry, Jim Guidry, Jennifer Stegall, Ronnie Demergian, Jo LeDuc, and Sue Ezalarab.

Others present: Todd Barry, Wisconsin Taxpayers Alliance, Roger Steinbach, ISO, Don Cleasby, American Family Insurance Company, Andy Franken, Wisconsin Insurance Alliance, Bill Toman, Quarles & Brady, Barbara Ulbrich, State Farm Insurance, Eva Miller, State Farm Insurance, Kelly Savage, State Farm Insurance, Elizabeth Zharp, State Farm Insurance, Misha Lee, Sentry Insurance a Mutual Company, Ralph Herrmann, Worker's Compensation Rating Bureau, Jim Polcyn, WEA Property and Casualty Insurance Company.

Jim Thomas chaired the meeting that began at 10:00 a.m. in the Spencer Kimball Conference Room 227, 125 South Webster Street, Madison, Wisconsin.

#### **I. Approval of July 11, 2008, Minutes**

The minutes from the July 11, 2008, meeting were approved. (John Duwell/Maryelyn Geisler)

#### **II. Presentation on Economic Impact of Insurance Industry**

Todd Barry, President, Wisconsin Taxpayer's Alliance gave a presentation on Wisconsin's Property & Casualty Insurers: Helping to Grow and Protect the Badger State. In June 2008, the Wisconsin Insurance Alliance (WIA) asked the Wisconsin Taxpayers Alliance (WISTAX) to study the impact the property and casualty (P&C) insurers have on Wisconsin's economy.

Major findings of this study include:

- In 2007, Wisconsin's 180 property and casualty insurance companies were ranked fifth nationally in the number of property and casualty insurers (including town mutual insurers) behind Texas, New York, Pennsylvania and Illinois.
- Wisconsin's P&C industry employed more than 17,000 people, the P&C industry generates agency and brokerage jobs, and, through its economic activity, additional jobs in other parts of the economy. Thus, directly and indirectly, between 59,000 and 65,000 jobs are linked to the P&C insurers.
- In 2006, jobs in the industry paid an average of \$59,925 annually, or 67% more than the statewide average (\$35,857). The industry had a total payroll of more than \$1.02 billion in 2006, and helped create an additional \$2.1 billion in wages in other industries throughout the state.

- P&C insurance companies paid an estimated \$97.7 million in corporate franchise and premium taxes in 2006. Industry employees paid an estimated \$58.6 million in individual income taxes. P&C companies and their employees also paid significant property and sales taxes.
- P&C insurers boost community development by buying and holding large numbers of municipal bonds. In 2007, more than one quarter of the financial holdings of P&C companies nationwide were municipal bonds. P&C insurers held \$6.91 billion (2005) in Wisconsin municipal bonds, even more than 19% of state-local debt in that year.
- P&C insurers provide state residents with some of the lowest homeowner's and automobile insurance. In 2005, the average auto premium in Wisconsin was \$615 or seventh lowest nationally. The average homeowner's rate was \$495, or fourth lowest in the U.S.
- P&C insurers also write worker's compensation insurance. These companies paid more than \$1 billion in claims in 2007. Wisconsin ranked 35th lowest in terms of worker's compensation rates.

### **III. NAIC Issues**

Deputy Commissioner Kim Shaul gave an update on the NAIC Fall Meeting. The Life Insurance and Annuities Committee requested and received approval to develop amendments to the Annuity Disclosure Model Regulation. Commissioner Dilweg was elected Secretary-Treasurer of the Interstate Insurance Product Regulation Commission. The Reinsurance Task Force adopted the Reinsurance Regulatory Modernization Framework proposal. The proposal will be sent to Plenary for a vote at the December NAIC meeting.

#### **A. NAIC Securities Valuation Office (SVO) Update**

Deputy Commissioner Kim Shaul said that the NAIC is looking at the idea of registering the SVO as a not for profit rating agency that would offer ratings currently offered by the three major existing rating agencies. The NAIC has established an SVO Initiatives Working Group. President Elect, Commissioner Roger Sevigny, was named Chair and Commissioner Dilweg was named Vice Chair of the Working Group. The Working Group will conduct a comprehensive review of criteria to register the NAIC's SVO as a nationally recognized statistical rating organization or otherwise establish an NAIC-affiliated statistical rating organization. The Working Group will also address the issue of the benefit, as well as the risks, to the NAIC in seeking the status.

A brief discussion followed. The proposal expands on the public service mission of the NAIC and seeks to provide additional options for credit rating in the marketplace, particularly for municipalities. It would be unique in its operation as a not for profit and would offer objective analysis. The new rating agency would be independent from the NAIC. Deputy Commissioner Shaul said she would keep the Council updated on the progress of the Working Group.

#### **B. Climate Change and Global Warming Task Force**

Jennifer Stegall said that the Climate Change and Global Warming Task Force met at the NAIC fall meeting and continued discussion on the climate risk disclosure proposal. Commissioner Dilweg is taking into account comments received from agent associations and consumer advocates. It is possible there may be other revisions made to the draft.

#### **IV. Preview of Next Legislative Session**

Jim Guidry said that the November election is now less than a month away. In the state Assembly the Republicans hold a five seat majority, while in the state Senate the Democrats hold a three seat majority with two seats currently vacant. At this point it is presumed that the Democrats will retain control of the Senate. The Assembly picture is much less clear. If the Democrats manage to capture control of the Assembly, there can be expected that certain bills that did not pass in the most recent session, will get passed in the next legislature. Bills that OCI anticipates seeing again in the next session include:

##### **Auto Insurer Direct Repair Programs**

The repair shops want a statutory prohibition on insurers directing where auto repairs can be made (steering); something OCI says is already prohibited as an unfair claims settlement practice and insurers say is not occurring. Insurers have been willing to accept statutory language requiring disclosure but have not agreed on some other proposals, such as dictating what can be said to a policy holder and when. An effort by Senator Schultz to reach middle ground resulted in a bill that contained a disclosure requirement. The bill was supported by the insurers but not by the repair shops.

Related to the steering issue is the issue of insurers paying only the prevailing hourly wage for labor on auto repairs. While the bills in the legislature have been largely portrayed as “anti-steering” legislation, they have also included provisions that have tried to eliminate insurer use of prevailing wage rates for labor charges.

##### **Use of Credit Information**

Jim said the Senate Democrats passed their credit bill which would have prohibited the use of credit information in rating and underwriting. There is a growing body of legislators who are becoming sympathetic to the argument that the use of credit information should not occur. The practice is viewed as discriminatory and not related in any way to the operation of a motor vehicle or the occupancy of one's home. This issue has become somewhat bipartisan.

##### **Mandatory Auto Insurance Coverage**

Jim said that the Senate passed a bill that would expand the state financial responsibility law to all licensed drivers, rather than drivers involved in motor vehicle accidents. The various attempts over the previous few sessions has offered different versions of requiring all drivers to carry auto insurance that seek to tweak the financial responsibility law or another type of legislative maneuver to require some type of mandatory coverage. This issue has also become somewhat bipartisan.

##### **Combined Reporting**

This bill requires that all corporations and their subsidiaries file combined reports and tax returns for state income and franchise tax purposes. Under combined reporting, all the separate business units of a commonly controlled group operating as a unitary business—divisions, subsidiaries, and affiliates—are treated as a single entity for tax purposes. A commonly controlled group does not include exempt insurers.

The bill exempts certain insurers that are exempt from income tax under sec. 71.45 (1) Wis. Stat. Town mutual insurers, foreign insurers, and domestic insurers engaged exclusively in life insurance business, domestic mortgage guarantee insurers and corporations organized under ch. 185 Cooperatives, Wis. Stat. are all exempted from the bill. That leaves domestic property and casualty and health insurers as the primary entities that will have filing responsibilities under the proposed law. Reaction from insurers has varied, with some benefiting under combined reporting and others not. The Department of Revenue estimated a \$93 million increase in revenues with the

passage of the bill. The greater business community at large is against combined reporting in spite of the insurance industry's neutrality.

### **Privacy**

There were a number of bills introduced in the legislature that affected business's or the state's ability to use social security numbers as identifiers. There was widespread support for some kind of limitations on the use of social security numbers as identifiers. Privacy is an issue that does not appear to be one that falls along partisan lines. Instead, it seems that as a priority, the issue of privacy has faded to a second or third level priority for legislators. That could change if party control changes, but that is not certain.

### **Factors for setting premium rates for motor vehicle insurance**

The Senate Bill sponsored by Senator's Carpenter relating to factors for setting premium rates for auto insurance rates prohibits using zip codes as a factor in setting or altering premium rates. This bill also sets out permissible factors in setting premium rates.

## **V. Federal Issues**

### **A. Office of Insurance Information**

The Office of Insurance Information ( HR 5840) bill did not make it out of Committee in the House of Representatives before Congress adjourned. Attempts at bringing the bill to the House floor were not successful as were attempts to bring attaching the bill to the continuing resolution bill. As amended the bill would have created the Office of the Insurance Information to advise the Secretary of the Treasury on insurance matters both domestic and international; coordinated federal policy on international insurance matters; and created preemption authority over state insurance regulations that conflict with international insurance agreements. OCI expects to see another attempt at passing the bill next session.

### **B. Renewal of the National Flood Insurance Program**

The National Flood Insurance Program was extended to March 6, 2009. The House and Senate were unable to overcome their differences over what their respective versions of the flood insurance extension that was set to expire September 30, 2008. There is disagreement over wind coverage provisions and how to treat the \$17 billion in debt that the program is carrying were the big divisions. Commissioner Dilweg sent a letter to Congressional leaders and to Wisconsin's Congressional delegation encouraging reauthorization.

Flood insurance has become an important issue to Wisconsin citizens after the flooding that was experienced in early June. Before the floods occurred there were only 13,000 flood insurance policies sold in the affected area. More works needs to be done to encourage people to participate in this program. Council members asked that Jim give an update at the next meeting on the number of flood insurance policies that have been sold in the affected area since the recent flooding.

## **VI. Worker's Compensation Rate Increase**

Ronnie Demergian said that OCI has approved an overall decrease in the rate level of 2.91% for worker's compensation insurance. The revised rates and rating values went into effective October 1, 2008, applicable to new and renewal business only.

## **VII. Volunteer Driver Survey**

Ronnie Demergian said OCI had been asked by the Governor's Interagency Council on Transportation Coordination (ICTC) to survey the 30 largest writers of personal passenger automobile insurance for information on whether or not they insure volunteer drivers under their personal automobile policy who use their personal automobile for transportation of persons or property for charitable purposes (Meals-on-Wheels, medical transports, etc). OCI wanted to also

know if there was a problem in the market and if there was, do we need to have a change in the law.

Thirty-two insurers responded yes to the survey that they provide coverage for volunteer drivers under the personal automobile insurance policy even if the volunteer receives reimbursement of related expenses. Two companies responded that they charge differently if the volunteer driver receives reimbursement of related expenses. The list is posted on OCI's Web site and ICTC's Web site. A disclosure was added reminding people that insurance companies reserve the right to make underwriting and claim judgments based on the individual risk or claim presented. Insurers should notify OCI within 60 days if the insurer's position changes.

#### **VIII. Other Business**

##### **Storm Damage Update**

Jim Guidry said that OCI is again surveying the 20 insurers that responded to the June survey for updated information on claims filed and potential losses to be paid by insurers. Jim said that OCI has been tracking storm damage on a weekly basis. Jim gave an update on the latest results. Flood related complaints for October 9 are 78 compared to 66 for September 25. The Local Government Property Insurance Fund claims for October 9 are 142 compared to 139 for September 25. The amount of LGPIF claims is over \$6 million for October 9 compared to \$5.9 million on September 25. Approximately 75% of the claims and 60% of the total amount are expected to be covered by the fund with the remainder of the claims expected to be denied. A final number, however, is not anticipated to be available for a while as much work is still in progress.

##### **Impact of AIG on Wisconsin's Insurance Industry**

Ralph Herrmann, Manager, Wisconsin Automobile Insurance Plan (WAIP) said that Granite State Insurance Company, an AIG company, has resigned its position as a commercial automobile servicing carrier. The resignation will be effective January 1, 2009. The Plan requires that 2 insurance companies be servicing carriers. Liberty Mutual Insurance Company resigned its position as a servicing carrier earlier in the year. Progressive Casualty Insurance Company replaced Liberty Mutual and has also agreed to service Granite State's commercial automobile business. WAIP is recruiting for another national carrier to act as a commercial automobile servicing carrier.

##### **Agenda Item for January Council Meeting**

Jim Thomas asked that for the next meeting that OCI give an overview of how the financial meltdown has affected the Wisconsin Insurance Industry. Deputy Commissioner Shaul said that OCI will provide a general overview of how the impact has affected the property and casualty industry.

#### **IX. Next Meeting Date**

The next meeting of the Property and Casualty Advisory Council is scheduled for Friday, January 9, 2009, at 10:00 a.m. at 125 South Webster Street, Madison, Wisconsin.