OII /OAMIC /B&E Fall Seminar
"Rising to the Challenge"

Washington Update

October 20, 2016
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Presentation Outline

• About NAMIC
• Rule Making in Washington
• Key Federal Issues
• Election Outlook
NAMIC Today

• Largest P/C trade association with 1,400 member companies, and 100+ new members since 2010.
• Serving 170,000,000+ policyholders
• Representing $230 billion in annual premiums
• Representing 39% of the total P/C market
• Representing 54% of homeowners, 48% of auto, and 32% of business insurance markets

Profile:
• 35 advocates and policy experts representing members in Washington DC and across US
• Member retention rate of 99.5%
• $1,000,000 Federal PAC
Rule Making in D.C.
GOVERNMENT

If you think the problems we create are bad, just wait until you see our solutions.

www.despair.com
• More than 180,000 rules now on books
• During past 8 years, almost 24,000 new rules and more than 16,000 add’l proposed rules
• Obama Administration recently issued 600\textsuperscript{th} major rule – the most of any administration in history. Major rule costs >$100 million
• Total cost of 600 major regs is over $743 billion w/ 194 million paperwork burden hours
• On track to issue 50 more rules adding $70 billion in annual costs to the total
What If the US Regulatory Burden Were Its Own Country?

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<tr>
<th>Country</th>
<th>GDP, in nominal 2012 dollars (billion USD)</th>
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<td>INDIA</td>
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It’s Not Even Clear How Many Federal Regulatory Agencies Exist!!!!

- The Federal Register Index lists 257
- The United States Government Manual lists 316
- There was a 2015 Senate Judiciary Committee hearing during which a senator listed over 430 departments, agencies and sub-agencies.
NAMIC has opposed the flood of regulations that directly affect your bottom line, including:

- Dodd Frank – 400+ rules
- DOL Fiduciary Rule
- DOL’s Overtime Rule
- Executive Compensation
- CFPB Arbitration Limits
- HUD Disparate Impact Rule
In May, the CFPB issued a 355 page proposed rule that would prohibit covered entities from including arbitration clauses that would ban class actions in client contracts.

Does this makes any sense?

The CFPB’s own report found that class actions filed between 2010 and 2013 that later settled delivered around $32 per consumer while the lawyers took in $425 million in fees.

The much smaller number of arbitrations that went to a decision delivered an average of $5,389 per consumer

Pending
March 2013 HUD Rule defining discrimination:

- Would use “disparate impact” – statistical disparities for protected classes (race, religion, gender, disability, etc.)
- Specifically applied the Rule to pricing and provision of homeowners insurance
- Could threaten use of any underwriting factor
DISPARATE IMPACT
Fighting HUD's Discriminatory Effects Standard

NAMIC and AIA launched an industry legal challenge to the HUD rule in the District Court of the District of Columbia in 2013.

The District Court agreed with us and vacated the HUD rule in November 2014.

In a decision that surprised even HUD, the Supreme Court ruled in June 2015 that the Fair Housing Act did allow disparate impact actions.
NAMIC and AIA have amended our complaint and continue the legal challenge to the HUD rule in the District Court for the District of Columbia.

We are seeking a District Court order requiring HUD to include the Supreme Court’s key limitation and conditions in the HUD rule.

Applying these limitations and conditions will allow only cases where company actions directly cause discrimination through barriers that are “artificial, arbitrary and unnecessary.”
Key Federal Insurance Initiatives
Insurance Regulation
Continued pressure from the international community

- The G-20 created the FSB which in turn tasked the IAIS with creating international standards – to begin with a single international capital standard for all IAIGs.

- Solvency II in effect and threats of equivalence persist.

- Regulatory convergence could result in major changes to the U.S. system and ultimately increase consumer costs while reducing consumer choice.
Concerns About the IAIS

- U.S. regulatory system fundamentally different than other countries’ and results in high levels of solvency and early identification of hazardous conditions
- Foreign regulators focused on exporting their own systems in a one-size-fits-all manner
- U.S. representatives need to do more to defend our system
- The last thing U.S. companies need is to have inappropriate regulatory standards applied
NAMIC Defends U.S. Regulatory System

Hearing on February 25 - NAMIC invited to testify

Called for rejecting one size fits all European style regulation:

- Add clear statement that no agreement is self executing
- Insist upon transparency and reporting
- Add language that would increase coordination/consultation with functional regulators and prevent agreement to anything that was not consistent with state or federal laws.

Gary Thompson
President/CEO
Columbia Mutual Ins. Com.
Chairman Luetkemeyer introduces Transparent Insurance Standards Act, H.R. 5143:

- A strong, “third way” approach from previous Heller-Tester or the Duffy bill.
- Includes many of the protections/transparency NAMIC asked for.
- Sets up guardrails around negotiations by establishing objectives.
- Prohibits standards which require change to state law.
- Prevents Covered Agreements being used to increase federal involvement in insurance regulation.
Unmanned Aircraft Systems (Drones)
Insurers and Drones

As the development of commercial uses for unmanned aircraft systems accelerates, more and more sectors are contemplating their use, including the insurance industry.

In fact, the p/c industry has a dual interest in drones:

- Using drones to provide safer and more economical insurance services
- Insuring for liability associated with the use of drones
The FAA forecasts that insurance will be one of the top four drone users by 2020.
FAA Moving Forward on Commercial Drone Use

FAA’s new rules will allow for commercial drone use for persons that get a Remote Pilot Certificate, which requires:
- Passing a Test
- TSA background check
- Registering the aircraft

Drone Operations Prohibited, but Waivable:
- At night
- Over people
- Higher than 400 feet
- Beyond Visual Line of Sight
- Speeds over 100 miles per hour
- Within five miles of an airport
Natural Disaster Mitigation
THE ISSUE:

Disaster spending is on an unsustainable path and current policies and programs are enabling this trend.
THE PROBLEM:

• Disaster declarations are at an all-time high.

• The U.S. has spent over $1 trillion in disaster relief since 1983.

• Over 75% of all economic loss associated with Hurricane Sandy was borne by the federal government.

• Washington lacks a comprehensive mitigation strategy and employs a reactive policy approach to disaster spending.
So instead of waiting for the next “big one” to strike…

Hurricane Matthew on October 6, 2016
THE SOLUTION:

The federal government must develop a National Mitigation Investment Strategy focused on pre-disaster mitigation and incentives for resilient construction.
Coalition History

2005
Formed the Building Code Coalition

2010
Opened the IBHS Research Center

2011
Founded the BuildStrong Coalition
Coalition History

Bolivar Peninsula, Texas, a few days before Hurricane Ike, September 2008

September 9, 2008
Following Hurricane Ike, the only homes left standing on the Peninsula were built using the IBHS FORTIFIED Standard.
The BuildStrong Coalition is focused on creating dialogue – between Members of Congress and the firefighting, emergency management, and insurance communities – based on the science and research behind safe building codes.

In just a short time, the Coalition has assembled an unmatched group of stakeholders to advance meaningful reforms to disaster policy.
Raised the profile of mitigation issues in Congress by hosting three “National Thought Leaders Forums on Building Codes for a Stronger and Safer America,” with participation from nearly a dozen high-ranking members of Congress and the Administration.

Hosted House Transportation and Infrastructure Chairman Bill Shuster, Subcommittee Chairman Lou Barletta, and South Carolina Governor Nikki Haley at the IBHS Research Center for a wildfire test and industry roundtable discussion.

Raised over $150,000 to support champions for mitigation and building code issues in Congress.
Worked hand in hand with Chairman Lou Barletta on a nationwide roundtable tour on mitigation and disaster losses with prominent lawmakers, government officials, and business leaders.

Engaged lawmakers to create an unprecedented scope of champions for mitigation issues that resulted in the Safe Building Code Incentive Act being the most popular disaster mitigation legislation over the last three sessions of Congress.

BuildStrong has established itself as the “go-to” organization for lawmakers and congressional staff who need expertise on disaster mitigation issues.
Coalition History

A Proven Legislative Track Record

- Succeeded in reauthorizing the National Windstorm Impact Reduction Program through FY2017 through passage of **H.R. 23 — National Windstorm Impact Reduction Act Reauthorization of 2015**. The bill provides for a better understanding of the effects of windstorms and fosters the development of measures to reduce the damage they cause.

- Championed the first comprehensive assessment of federal disaster spending by Congress in over 20 years through **H.R. 1471 — The FEMA Disaster Assistance Reform Act of 2015**.

- Secured more cosponsors for the Coalition’s signature legislation — **H.R. 1748 — The Safe Building Code Incentive Act** — than any other disaster mitigation legislation over the last three Congresses.
The Need for a Comprehensive Solution

Accompanying public affairs campaign resulted in:
- Three op-ed placements, including in The Washington Post, an interview on CNN, and national trade press and conservative media hits.
- Video produced on the campaign garnered over 230,000 impressions, 1,000+ video views, and almost 600 page views.
Following the widespread national media attention, folks on Capitol Hill took notice.

In the days and weeks that followed, we were contacted by members of Congress on both sides of the aisle.
Creating the National Mitigation Investment Act
On May 10, Reps. Carlos Curbelo (R-FL) and Albio Sires (D-NJ) introduced H.R. 5177, the National Mitigation Investment Act (NMIA).

Two days after introduction, Subcommittee Chairman Lou Barletta (R-PA) held a hearing designed around the legislative package.

Shortly after introduction of NMIA, the Administration announced its intent to design a Federal Mitigation Investment Strategy.
National Mitigation Investment Act Act (NMIA) includes:

• Powerful Incentives: Includes the Safe Building Code Incentive Act

• Enforcement Tools: Creates 1st-of-its-kind program within FEMA to award code enforcement grants to states and localities on a competitive basis

• Disaster Study: Authorizes study examining costs of natural disasters and determining best methods for mitigation
Moving the Needle on Capitol Hill

- Leveraged the grassroots muscle of BuildStrong’s broad membership to generate thousands of contacts to key legislators regarding the NMIA

- Executed a legislative outreach initiative encompassing over 60 meetings with key congressional leaders

  - **Result:** H.R. 5177 already has **28 cosponsors** (13 Republican; 15 Democrat) representing 15 states and the District of Columbia
Other Federal Mitigation Tools

H.R. 3397 – Disaster Savings and Resilient Construction Act of 2015
Creates incentives for builders, contractors, and homeowners to build more resiliently following a disaster.

H.R. 2230 – Disaster Savings Account Act of 2015
Establishes a tax-exempt savings account that homeowners can use to pay for disaster mitigation.
October:
Present strategies to senior campaign officials. Leading the effort will be former FEMA Administrator David Paulison and NEMA President and Florida Director of Emergency Management Bryan Koon.

November:
Launch public affairs campaign in support of reforms.

NAMIC and the BuildStrong Coalition are partnering with NEMA to brief each presidential campaign on a set of strategies designed to reform disaster spending.
Other Federal Industry Issues

- National Flood Ins. Program
- FIO
- TRIA
- Tax Reform
- PARTS Act
- McCarran Ferguson Repeal
- Medicare Secondary Payer
- Autonomous Vehicles
- Auto Recalls
- NARAB
- Cyber Threat Sharing
- Domestic Cap Standards
- Risk Classification
- Data Security Standards
- Crop Insurance
- Legal Reform
- FACT ACT
- Patent Reform
- Distracted Driving
- RRG Expansion
Politics is Not a Spectator Sport

Insurers must be engaged in shaping the legislative and regulatory landscape
As Few As 40 House Seats May See Close Races

2016 House Race Ratings, by Party

R: 246 (218 Needed for Majority)
D: 188

Source: The Cook Political Report
The party of the winning presidential candidate has only gained over 25 House seats in three presidential elections

Analysis

- Democrats need a **30-seat net gain** for a House majority
- There is not enough individual House-race polling and national generic congressional ballot-test polling to draw too many conclusions
- **Gains of 25 seats or more** usually happen only in midterm elections—exceptions being the 1980, 1964 and 1948 presidential elections
- Current congressional district boundaries **reduce the number of competitive districts**, and in many cases are drawn in a way to make it much harder for Democrats to win than in past decades
- Even so, it would be reasonable to conclude that Democrats' chances of taking the House have risen from **10 to 20 percent**

Democrats Need to Pick Up Four Seats to Gain Senate Majority

Breakdown of 2016 Senate Races, by *Cook Political Report* Rating

GOP Rising

Florida

Sen. Marco Rubio (R-FL)
Rep. Patrick Murphy (D-FL-18)

Ohio

Sen. Rob Portman (R-OH)
Fmr. Gov. Ted Strickland (D-OH)
Likely Democratic Pickups

Wisconsin

Fmr. Sen. Russ Feingold (D-WI)
Sen. Ron Johnson (R-WI)

Illinois

Sen. Mark Kirk (R-IL)
Rep. Tammy Duckworth (D-IL-8)
Possible GOP Pick-Up

Nevada

Rep. Joe Heck (R-NV-3)  Fmr. AG Catherine Cortez Mastro (D-NV)
Pure Toss Ups

New Hampshire

Sen. Kelly Ayotte (R-NH)  Gov. Maggie Hassan (D-NH)

Pennsylvania

Environmental Policy Official
Katie McGinty (D-PA)

Sen. Pat Toomey (R-PA)

3?  4?
Remaining Questions

**Indiana**

- Rep. Todd Young (R-IN-9)
- Fmr. Sen. Evan Bayh (D-IN)

**North Carolina**

- Sen. Richard Burr (R-NC)
- Fmr. State House Rep. Deborah Ross (D-NC-34)

**Missouri**

- Sen. Roy Blunt (R-MO)
- Sec. of State Jason Kander (D-MO)

**Arizona**

- Rep. Ann Kirkpatrick (D-AZ-1)
- Sen. John McCain (R-AZ)
Democrats, GOP Will Take Turns Playing Defense in Years Ahead

Senate Seats in Play, by Election Year

- Republican Seats
- Democratic Seats

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<tr>
<th>Year</th>
<th>Republican Seats</th>
<th>Democratic Seats</th>
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<td>2020</td>
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Source: The Cook Political Report
Earlier this month, a recording was leaked of Trump making extremely lewd comments about women on a “hot mic” during the taping of an Access Hollywood interview in 2005.

…and since then, a number of women have publicly accused Trump of inappropriate behavior in the past.
Before the release of the tape, Clinton was only leading Trump by two to four percentage points.

Today, she is up more than seven points, a massive gap for Trump to close with just weeks until the election.
At the same time, damning e-mails that would have ended many presidential campaigns in history continue to be released in batches of “WikiLeaks”….

But the leaked e-mails don’t seem to have the impact of the leaked Trump recording and accusations.
Top Republicans Cut Ties With GOP Nominee

Trump’s vulgar commentary about women and accusations about his sexual assault set off an exodus of House Republicans, including Speaker of the House Paul Ryan (R-WI).

Ryan cut ties with his party’s nominee amid growing fears that the historic GOP House majority might not be as safe as previously assumed.
The turmoil in the Trump camp gave Clinton a renewed opportunity to compete in traditionally red states like Arizona, Georgia, and Utah.

Clinton just announced she is spending an additional $2 million in Arizona, and is continuing to focus on key battlegrounds in Florida, Pennsylvania, Michigan, Ohio, Iowa, and New Hampshire.

Clinton leads, or is in a dead heat with, Trump in all of those states.
And while Trump’s performance in last night’s final debate was better than his previous two... It is likely too little to late for the GOP nominee, who needs to make up significant ground to have a path to victory. But, everyone was wrong in the primary and both polling and turnout models are in question...
2016 Race for the White House – Is Trump Finished?

Even given every state that is close, Trump is still short of the 270 necessary electoral votes

- The current Cook electoral ratings list 272 votes as Democrat, 69 votes as toss-up and 197 votes as Republican
- Of the 26 states Obama won in 2012, Trump is carrying only Iowa, by 3.7 points, and Maine’s 2nd district, by 5.4 points
- Clinton has small leads in Ohio (a half point), Nevada (1.4 points) and Florida (2.7 points)
- Giving Trump North Carolina, Iowa, Nevada, Florida, Ohio and Maine’s 2nd district would bring him to 266 electoral votes, while Clinton would have 272
- Overall, even given every state that is close, Trump would still come up short

2016 Race for the White House – The Return of the Split Ticket?

Ticket splitting has become increasingly rare over the past few decades

Split ticket voting for presidential and congressional candidate

Thank You!

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