
Task Force Meeting

of

TASK FORCE ON THE AVAILABILITY OF HOMEOWNERS INSURANCE IN THE COASTAL REGION

*“To hear testimony from the Commissioner of
Banking and Insurance, in addition to other testimony”*

LOCATION: Committee Room 4
State House Annex
Trenton, New Jersey

DATE: May 26, 1999
2:00 p.m.

MEMBERS OF TASK FORCE PRESENT:

Assemblyman Nicholas Asselta, Chairman
Senator Leonard T. Connors Jr.
Jaynee LaVecchia
Joseph Armeni
Kenneth R. Auerbach
Charles F. Beirne
Anthony T. DiSimone
Diane K. Disbrow
Donald G. Doll Jr.
Barbara Weigand



ALSO PRESENT:

William M. Connolly
(representing Jane M. Kenny)

Mary C. Beaumont
Office of Legislative Services
Task Force Aide

Jarrod C. Grasso
Assembly Majority
Task Force Aide

Meeting Recorded and Transcribed by
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APPENDIX:

*Windstorm Market Assistance Program
1998 Operating Results Report*

submitted by

Commissioner Jaynee LaVecchia

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submitted by

Leon Zimmerman

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Letter plus attachments

addressed to Assemblyman Nicholas Asselta
from Reinsurance Association of America

Washington, D.C.

18x

lmb: 1-59

ASSEMBLYMAN NICHOLAS ASSELTA (Chairman): Good afternoon, everyone.

This is the fourth meeting of the Task Force on the Availability of Homeowners Insurance. That is a joint Task Force made up of Senate and Assembly representatives, and the industry -- the insurance industry, the real estate community, the State of New Jersey DCA, that has been formulated, through legislation, two years ago to address the issue of availability of coastal insurance.

We would begin by taking the roll.

MS. BEAUMONT (Task Force Aide): Senator Connors.

SENATOR CONNORS: Here.

MS. BEAUMONT: Senator Kyrillos. (no response)

Assemblyman Asselta.

ASSEMBLYMAN ASSELTA: Here.

MS. BEAUMONT: Assemblyman Corodemus. (no response)

Commissioner LaVecchia.

COMMISSIONER LaVECCHIA: Here.

MS. BEAUMONT: Bill Connolly for Commissioner Kenny.

MR. CONNOLLY: Here.

MS. BEAUMONT: Joseph Armeni.

MR. ARMENI: Here.

MS. BEAUMONT: Kenneth Auerbach.

MR. AUERBACH: Here.

MS. BEAUMONT: Charles Beirne.

MR. BEIRNE: Here.

MS. BEAUMONT: Kirk Conover. (no response)

Diane Disbrow.

MS. DISBROW: Here.

MS. BEAUMONT: Anthony DiSimone. (no response)

Donald Doll.

MR. DOLL: Here.

MS. BEAUMONT: Holly Roth. (no response)

Barbara Weigand.

MS. WEIGAND: Here.

ASSEMBLYMAN ASSELTA: Thank you.

Let me just begin by giving you a little overview as to where we've come. About six months ago, we began a public input search, and we began our first meeting up in Monmouth Beach in December in Monmouth County, followed by another meeting in February in Surf City, in Ocean County, and followed then in late March in Ocean City, in Cape May County. Those three meetings have brought forth testimony from the industry in general, the real estate industry, the insurance industry, and basically, what we're trying to ascertain was input from the general public and homeowners.

We have gathered that information. We're here at the very end of the line here with the last meeting in a summation forum to sum up as to what we've heard and finish off with the Commissioner of Banking and Insurance, Commissioner LaVecchia.

I welcome you, Commissioner, and thank you for attending this meeting, and we're looking forward to your testimony.

COMMISSIONER LaVECCHIA: Thank you, Mr. Chairman, and members of the Task Force. It's my pleasure to offer testimony this afternoon to the Task Force.

The Department of Banking and Insurance is providing the Task Force today with its 1998 Windstorm Market Assistance Program Operating Results Report.

Seated to my right is Ms. Peggy Harrison, who is well-known to this Task Force. She will be providing the group with a short overview of the report and will be addressing any questions you have with regard to that report. You should have copies already in front of you.

As this Task Force knows, the Department has been monitoring WindMAP to assess its effectiveness in addressing New Jersey's coastal insurance availability problem.

Our coastal communities began to show evidence of insurance availability problems, as you know, early in 1993 in the wake of Hurricanes Andrew and Iniki. The public complained about the inability to find coverage and the termination of existing policies. The FAIR Plan, which is the market of last resort for property coverage, began to experience a significant influx of new business statewide but particularly from the coastal communities.

The problem that emerged in New Jersey seemed to have little to do with actual historical losses sustained by insurers in the state, even in view of the significant storms that occurred in December of 1992 and March of 1993. Rather, it seemed largely a reaction to the losses sustained by the industry from those hurricanes which included insolvencies of several insurers.

The Department took several initial steps back in 1993 to address the problem. The Department surveyed most of the major insurers to determine whether any had instituted actions that would restrict coastal writings and to obtain copies of their guidelines. The Department initiated administrative action against two insurers due to their refusal to write and/or renew coastal business. The Department acted to increase the coverage limits available under the FAIR Plan for habitational properties. We went from 300,000 to 500,000 at that time as you know.

The Department established procedures for monitoring the growth of business in the FAIR Plan for the four coastal counties and statewide. And, the Department convened the Ad Hoc Windstorm Task Force, which consisted of several major writers of homeowner's insurance, the insurance producer trade associations, and Department staff, to study the problem and recommend possible solutions.

At the time, the Legislature also acted by placing a temporary moratorium on the termination of homeowner's or secondary residence policies on the basis of proximity to water or the risk of windstorm-related claims. That was done through Chapter 349 in the laws of 1993. That law also required that the Ad Hoc Task Force report its findings to the Legislature and the Governor together with recommendations for corrective measures. New Jersey's WindMAP has its genesis in the resulting report that was prepared by the American Insurance Association on behalf of the Task Force.

By way of background, the Market Assistance Plans, as you know, are voluntary programs designed to aid consumers finding coverage when availability problems have emerged, usually with respect to a particular line of

coverage. Generally, they are set up as temporary mechanisms and are discontinued when normal market conditions return and availability problems are alleviated. MAPs have been used in New Jersey notably during the commercial-lines insurance crisis that occurred in the 1980s, and they've been used in other jurisdictions as well. It is important to note that MAPs are considered among the most limited types of marketplace interventions.

In mid-1994, the Department issued a bulletin to all insurers that was intended to explore the extent of industry interest in forming a MAP to address the coastal insurance problem. This initiative eventually led to the establishment of the WindMAP, which became operational on January 1, 1997.

New Jersey's WindMAP is set up under Department auspices pursuant to regulations, but it is a voluntary, industry-driven program. Although all companies writing homeowner-type coverage technically are members of the WindMAP, the decision as to whether to actually participate is purely voluntary.

I'd like to turn now to the WindMAP Governing Committee's Report, which this Task Force had previously received. Prior to the last meeting in Ocean City, the members received the progress report from the Governing Committee. I'd like to offer the members today a few observations on the Governing Committee's evaluation of the coastal market situation and on its recommendations for addressing the situation.

At the outset, however, let me first on behalf of the Department take this opportunity to formally thank the Governing Committee members, both current and former, for all their hard work in developing a Plan of

Operation for WindMAP and for implementing the Program. In attending committee meetings, the Department's representatives have had an opportunity to observe discussions intended to forge a plan that would serve the public, while taking into consideration often disparate interests flowing from the insurers' marketing systems. In many instances, the Governing Committee was successful in striking an appropriate balance, but there have been some matters where in our perception the Committee may have missed the mark in achieving that balance when trying to take into account the different interests of its members. I will attempt to address today where that may have occurred and where some continuing work is warranted, but I am very appreciative of the Committee's work overall. And the staff of the FAIR Plan, which acts as administrator for the Program, also, should be thanked and commended for its diligent efforts.

Turning to the WindMAP Governing Committee Report dealing with market evaluation, the seminal question as we all know is, is there an availability problem? The Governing Committee has reached several conclusions concerning this coastal market that we're all concerned about.

1. The market has improved noticeably since 1996, the Committee has concluded.

2. In general, New Jersey's market compares favorably to other states with regard to FAIR Plan market share.

3. The availability problem lies principally in the 18 designated zip codes comprising mostly the barrier islands.

With these conclusions, the Committee notes that the most acute availability problem affects about 5 percent of New Jersey's homeowners.

Accordingly, efforts to improve availability within the 18 zip codes, it is urged, should proceed cautiously and incrementally to avoid disrupting the remainder of the market.

As the Department's 1998 WindMAP report indicates, the data used to monitor the coastal market situation suggests a mixed result at best. Very recent Plan data suggests that the FAIR Plan's presence in the coastal market is leveling off and perhaps beginning to decline. However, on an overall basis, the FAIR Plan has more policies in the 92 zip codes and in the 18 barrier zip codes at the end of 1998 than it did at the end of 1996. That's shown clearly in Exhibits I and II in the Department's Report in front of you. But despite increased activity on the part of at least some WindMAP carriers, the available data fails to show any link between recent improved FAIR Plan results and improvement in performance by admitted market carriers. Increased activity by surplus-lines carriers may be the answer to that. At this point, it does not appear, though, that the voluntary market has turned a corner. For reasons that will be described below, we hope that this will change.

The Department agrees that New Jersey's availability problem does not compare with some other coastal states, as noted by the Governing Committee, but then neither does New Jersey's exposure to hurricane loss. Using residual market data from such states when evaluating the magnitude of the residual market growth here will naturally tend to minimize New Jersey's problem as compared to what has happened elsewhere. However, the Department does believe that the availability problem is most acute within 1000 feet of the shore, which as you know does include the 18 barrier island zip codes.

With regard to the effectiveness of the Windstorm Market Assistance Program, the Governing Committee points to improved results in 1998 compared to 1997 for the Formal Assistance Program carriers based on the self-certification reports that are submitted by the carriers to the administrator. This includes overall improvement in the volume of new policies written, as well as increased FAIR Plan take-out activity.

The Department's report also notes this improved trend, as well as increased emphasis by the carriers on properties that are in closest proximity to the water. We concur that these results are encouraging, and we believe it is likely the anecdotal reports of improved market conditions at the shore are attributable to this activity. However, as previously noted, this activity has not, as yet, translated into overall improved results in the inforce policy counts of admitted market insurers, especially in the barrier islands.

The Governing Committee has concluded that the rotation process is ineffective and has cited various reasons for its failure. We, too, agree that the rotation process is inefficient in its current setup. The Department believes that the structure of the rotation process is primarily responsible for its inefficiency. This maybe a situation where the Governing Committee's efforts to strike a balance between the differing interests of all affected parties did not achieve the desired result. The Governing Committee's Report initially recommended discontinuation of this part of WindMAP. However, since the issuance of the report, we understand that the Governing Committee is exploring ways to restructure the rotation process. We strongly encourage the Governing Committee's effort, and we are awaiting their recommendation.

With regard to causes of reduced availability, solutions, and conclusions, allow me to cover the following. The Governing Committee Report cites various reasons for reduced availability emphasizing the importance of insurer capacity as a solvency issue and the increasing use of computer models to determine an insurer's Probable Maximum Loss and, hence, its capacity. The report notes the issues that have arisen with respect to the accuracy of such models and the difficulty in assessing accuracy in view of the proprietary information claims of the modeling companies. We note that the agent/broker representatives of the Committee specifically encouraged that the industry work with regulators to achieve a consensus on modeling.

We do not believe that the capacity concerns of insurers should in any way be discounted. What is troubling is the sense that such concerns should drive the process. The Committee's Report states, "Regardless of whether these individual assessments of capacity are accurate, these determinations are what control how much insurance is available in coastal areas." The Department does not concur with the Governing Committee's conclusion that the industry's projections of capacity must either be accepted or disregarded. The Department believes that Probable Maximum Loss assessments must be subject to the same scrutiny for reasonableness as other factors affecting an insurance company's operations in this state. Arguably, such an assessment is even more important in a state like New Jersey, which has no significant hurricane history and where the likelihood of a storm threatening the industry's solvency is remote.

Setting aside concerns about capacity, the Governing Committee Report describes two methods by which insurers can be forced to write more

coastal business. These are an assigned risk program or a take-all-comers law. The Governing Committee unanimously concludes that a program of forced placement would be the worst course of action.

We would point out that the types of legislative or regulatory actions that can be taken to address an availability problem can vary greatly with respect to their degree of intervention into the operations of the market. The Governing Committee's analysis of this issue is based upon more extreme forms of market intervention, perhaps the most extreme, and fails to take into account more moderate approaches such as establishing standards for company underwriting guidelines. As you know, the Department has been and is continuing to consider promulgating rules concerning such standards.

The Governing Committee also notes that New Jersey has fewer companies writing homeowner's insurance than some sister states and argues that to adequately address the coastal insurance situation it is necessary to bring in more carriers. While having additional players will certainly be of assistance, in this regard, we would note that we at the Department are presently working with a carrier that intends to focus its marketing efforts on coastal properties. However, let us not forget that the premise of WindMAP was to promote availability of coverage by changing the marketing focus of companies already operating in New Jersey.

One of the purposes in establishing the Special Hurricane Deductible Program under WindMAP was to address capacity concerns so that insurers would be able to write more business at the shore. The Governing Committee's seeming criticism of the deductible program because a carrier must be an active participant in the WindMAP in order to avail itself of such

deductibles is not well placed. The Department notes that a major carrier in New Jersey, General Accident, has recently had its deductible program approved and has agreed to become an active FAP participant. In addition, two of the State's largest writers that already were FAP participants have made new commitments to increase their coastal writings based on the approval of their deductible programs.

With regard to mandatory deductibles, the Governing Committee Report recommends that higher deductibles be permitted but does not provide a specific percentage recommendation. Presumably, the deductibles allowed under WindMAP are not viewed as adequate. As you know, those are 2 percent, 3 percent, and 4 percent. We are not in accord with this aspect of the Committee on this particular point. The Committee also recommends that insurers be allowed to apply mandatory deductibles to existing policyholders, as well as to new business. As noted in the Department's report, active FAP carriers may file for mandatory deductible plans that would apply to its current policyholders. So that is already available to them.

In conclusion, we at the Department agree that the availability problem is multifaceted. We also agree it doesn't call out for extreme solutions. Where we part company with the Governing Committee is the following: We do not believe that implementation of all of the recommendations they have suggested are necessary in order to address what is a focused problem.

Thank you.

I'd like to, if the Task Force would bear with me, allow Ms. Harrison to give you an overview of the separate document, the report that the Department's issuing today and has made available to the Task Force.

Thank you.

MARGARET HARRISON: And you all have before you a copy of our 1998 Operating Results Report, which we recently completed. And basically, I guess the way to approach this is sort of compare it to the 1997 report. Essentially, the results are unchanged in the sense that we concluded in 1997 that the data showed really a mixed result for the operation of WindMAP and, also, in terms of the whole coastal market situation. And the same thing really is true in 1998. It's still very much a mixed bag in terms of results.

As the Commissioner mentioned, the FAIR Plan data shows some promise in terms of the direction that it has taken. What you will see in this report are some exhibits at the end which are similar to what you have from the Governing Committee Report. We have an inforce policy, FAIR Plan policy exhibit which shows the changes in inforce policies that have occurred in the FAIR Plan. In addition to that which is not in the Governing Committee's Report, the Department has been tracking historically probably since 1995 the influx of new business and continuation business into the FAIR Plan. Both of those exhibits for 1998 indicate that the FAIR Plan is experiencing a lower growth of policies, especially in the 18 zip codes. In 1998, their presence actually declined in the 18 zip codes, and that's shown both for new business and for inforce policies.

Continuation business, which in normal insurance terms, I guess, is really a renewal policy, does not show the same sort of decline, that there seems to be a higher persistency in the FAIR Plan existing book of business. In a sense, it's inconsistent with the results that you will see on the FAIR Plan as the administrator of the WindMAP the self-certification reports. That exhibit basically shows that the companies that are writing business after their normal marketing channels have written more business in 1998 than they did in 1997. They also have written a great deal more policies that were formerly in the FAIR Plan.

You can see this -- it's in Exhibit IV. In 1998, they wrote 1644 policies, as compared to 569 policies coming out of the FAIR Plan in 1997. This for some reason does not seem to be affecting the FAIR Plan's persistency in terms of its existing book of business. Maybe that will turn around in the future, but it has not done that to date.

One thing that you will not see in the Governing Committee's Report, which is in the Department's report, is information that is based on the Windstorm Market Survey Reports that are submitted to the Department on a quarterly basis. And this is the information that we use to essentially track what is going on in terms of the changes in inforce policies in the voluntary market. You'll see that data in Exhibits VIII and IX with the 18 zip codes. This is where we find that there does not seem to be, despite the improved FAIR Plan results, an improvement in the admitted market performance particularly in the 18 zip codes. Exhibit VIII shows the activity that has occurred with respect to WindMAP participating carriers. They have a very slight improvement in performance for 1998 -- 185-policy growth over

the prior year. When you look down at non-WindMAP carriers, basically what little was done by the participating company is really offset by what has happened on the nonparticipating companies who show a loss for that year of over 1400 policies.

So despite the fact that the FAIR Plan is decreasing its presence in those 18 zip codes, it's not translating into a growth in the admitted market which leaves us to the conclusion that the surplus-line carriers maybe picking up on some of this.

One of the initiatives that the Department has put forth is we met a couple of months ago now with the Surplus-Lines Association, and they are in the process of performing a survey for us which captures information that is fairly similar to what we capture on our Windstorm Market Survey Reports in order to try to get a better understanding of just how much business the surplus-lines carriers are writing and the proximity to the water that they're using. We're also gathering information from them in terms of the pricing of those policies and any substantial differences in coverages between what a consumer would get in a normal homeowners type policy and what they might be able to get through a surplus-lines company pretty much in terms of the deductibles that might apply to it. We expect to have the results of that probably in the next few weeks.

The other thing I would like to draw to your attention in the report are certain initiatives that have occurred which we think may change the direction of WindMAP for the coming year. Those, besides serving the surplus-lines companies, include the change -- hopefully, a change in the way

the rotation process will operate. That may make that a more effective mechanism for helping consumers find coverage.

The increased participation and deductible programs that we're beginning to see which the Commissioner already mentioned. We also want to mention that we have changed the FAIR Plan deductible structure using essentially the WindMAP as a model with the thought being that you do not want to provide deductibles in the FAIR Plan which are going to be more attractive to consumers than what you would find in normal voluntary market policy. And the final thing is that at the end of 1998 we did approve an 8.4 percent rate change for the FAIR Plan.

ASSEMBLYMAN ASSELTA: Thank you, Ms. Harrison.

And, Commissioner, we will-- Obviously, the Task Force will take your report and compare it to the governing body's report and, hopefully, come up with some conclusions.

I think just the first question I'd just like to kick it off with, and I'm sure there's other members who have questions-- At the back of your testimony, Commissioner, you just briefly talked about encouraging another carrier to get in. I would assume it's a significant carrier that could significantly effect the marketplace.

MS. HARRISON: It's a sizeable carrier, and I'm reluctant to give its name--

ASSEMBLYMAN ASSELTA: Sure.

MS. HARRISON: --until we've concluded the discussions which are very close. I also alluded to the fact that two of indeed our largest writers have renewed their commitment to writing at the shore and have made a

commitment personally to myself and other members in the Department to increase that quite a bit. We're looking forward to the results of those initiatives.

ASSEMBLYMAN ASSELTA: Is this something that your Department has been very aggressive on and try to encourage not only keeping the existing companies, but looking towards new companies to come in?

MS. HARRISON: Yes. We're doing both, and I can tell you that I've not had a discussion with a single company about homeowner's policies and homeowner's rates without turning the conversation at some point to their commitment to writing at the shore.

ASSEMBLYMAN ASSELTA: Thank you.

Questions from the Task Force?

Yes, Mr. Auerbach.

MR. AUERBACH: Commissioner LaVecchia, I have a question concerning, I guess, definitions of deductibles. You mentioned that FAP participating carriers may apply for mandatory deductibles in their filings. By mandatory deductibles, do you mean that the carrier may or may not permit a buyback of the deductible on the part of the insured?

MS. HARRISON: Buybacks are permissible, but they're also connected to litigation efforts as well so that the two can be linked together. The FAP participants definitely have access to the heightened deductible program that I referred to before.

MR. AUERBACH: Are there any carriers that have a Windstorm deductible program in place where there is not a buyback that the insured may take advantage of?

MS. HARRISON: I'd have to double-check that. I'm not sure off the top of my head that there are any, but I'll check.

MR. AUERBACH: Thank you.

ASSEMBLYMAN ASSELTA: Anyone else?

Yes, Mr. Armeni.

MR. ARMENI: Ms. Harrison, I'd like to ask regarding Exhibit IV. You talk specifically about the self-certification report and that there, in fact, was improvement from 1997 to 1998. Could you tell the Task Force exactly what that number represents? It's not pure writings of the insurer, rather it is exceptions to the (indiscernible). Is it not?

MS. HARRISON: Yes. That's correct. Basically, the companies that were participating when that -- send a monthly report into the FAIR Plan, and it shows basically their new writings. But what they are required to report are policies that they've written which are either wraparound policies, or they are exceptions to the company's normal underwriting guidelines. So essentially, these numbers will be understating in some sense the company's total activity because it's based upon whatever their guidelines may happen to be. If you have a company, for example, that does not have, say, a distance from water requirement, they may not show a lot of activity under this because they really don't have exceptions to report. So this essentially will understate their numbers in terms of what their total change may be.

MR. ARMENI: Thank you.

ASSEMBLYMAN ASSELTA: Anyone else?

Mr. DiSimone.

MR. DiSIMONE: I came in a little late. My name is Anthony DiSimone.

I'm curious that some of the WindMAP carriers apparently are reluctant about the non-WindMAP carriers participating in the market along the coast. Is that primarily because if they don't belong to the WindMAP program, their reluctance is that they have no obligations for a deductible and can charge a higher deductible?

MS. HARRISON: I'm not following what you--

MR. DiSIMONE: Apparently, there's a difference between the numbers with the WindMAP carriers and the non-WindMAP carriers, and that WindMAP carriers or WindMAP itself are looking of course for other carriers to join WindMAP and to follow their program. When they don't do that, is the deductible -- is that the primary reason for the reluctance on the part of the WindMAP carriers to encourage them to write more business?

MS. HARRISON: Well, I don't think you really can characterize it that way. The deductible program under WindMAP is available to active participants. When you sign up to be a FAP participant, you don't necessarily sign up to write *X* number of policies per se. It's a voluntary program. When a company wants to file for those sorts of deductibles that we allow under WindMAP, we look first of all to see are they participating as a carrier. And there's also an analysis conducted in terms of whether they're considered to be active, and that maybe active in terms of what their historic situation maybe in terms of their coastal versus their statewide writings, but it may also be in terms of what they will do in the future if they are able to get these kinds of deductibles in place. So not every company that has filed for these

deductibles-- It's been selective. We don't have all of them who have actually filed for this.

ASSEMBLYMAN ASSELTA: Senator Connors.

SENATOR CONNORS: Thank you, Mr. Chairman.

Commissioner, I'd like to just go back to Exhibit I here for a moment, the FAIR Plan Inforce Policies. I'm pretty sure I'm reading it correctly. There's been an increase of 5744 policies in the 92 coastal zip codes since '96. Am I reading that right?

MS. HARRISON: Fifty-seven hundred.

SENATOR CONNORS: Fifty-seven hundred forty-four.

COMMISSIONER LaVECCHIA: Yes.

SENATOR CONNORS: And the 18 top zip codes, what is meant by top zip codes?

MS. HARRISON: It's a shorthand for the 18 barrier island zip codes which have had the highest--

SENATOR CONNORS: The ones with the most exposure.

MS. HARRISON: Yes.

SENATOR CONNORS: Okay. All right.

So, in two years, it's gone up by 5700 policies.

COMMISSIONER LaVECCHIA: That's correct.

SENATOR CONNORS: So it's not really reducing. The policies-- In other words, the policies aren't being reduced and private industry taking over. We still have the FAIR Plan increasing each year.

COMMISSIONER LaVECCHIA: That's correct.

SENATOR CONNORS: I think I know the answer to it, but I'm pledged to ask you. What is the reinsurance plan for the FAIR Plan?

COMMISSIONER LaVECCHIA: We really have a reinsurance plan for the FAIR Plan, Senator. The FAIR Plan does not break that way.

SENATOR CONNORS: So in effect the FAIR Plan is backed by the taxpayers of the state.

COMMISSIONER LaVECCHIA: The FAIR Plan is essentially a reduced form of coverage that is made available through carriers. It's part of the assigned coverage program that the State has for the homeowner's market and sets the minimum limits that must be provided to policyholders that are covered through FAIR Plan coverage.

SENATOR CONNORS: It is my understanding -- and please correct me if I'm wrong, this is something that is haunting me with regard to this issue. The State just put out the FAIR Plan, and the homeowner is buying the FAIR Plan. Were there a catastrophic loss in the FAIR Plan, homeowner's FAIR Plan, that these 27,966 people that have FAIR Plan insurance, there is no reinsurance that would cover a catastrophic loss, and it's really the taxpayers of the State or the Legislature who would be saddled with the problem of raising the money to cover those losses should they occur. Is that not so?

MS. HARRISON: The FAIR Plan has a couple different sources of revenues. First, they have premiums.

SENATOR CONNORS: Then what?

MS. HARRISON: First are the premiums. Second there is an assessment that has been in place, I think, now for a couple of years which is

levied on the companies, which adds an additional source of revenue to the FAIR Plan. I don't know what the cap of that is offhand, but that's an additional source of revenue which has only been in place for the last couple of years. Beyond that, the next step is there is an Insurance Development Fund which is funded through assessments that can be placed on property coverages. And beyond that, there is -- back up to the State Treasury really as a form of putting money out, which is then recouped through the assessment process. So there's really several layers to the funding of the FAIR Plan. But the FAIR Plan itself, as I understand it, has not gone out and purchased a private reinsurance program, if that's really your question.

SENATOR CONNORS: And then the next question logically in my mind would be to ask, how much revenue now has been stored away to cover a catastrophic loss in the coastal area?

COMMISSIONER LaVECCHIA: We didn't bring those numbers with us, Senator, but I'd be happy to provide them to you, through the Chair.

SENATOR CONNORS: Do you have a guess?

COMMISSIONER LaVECCHIA: I can't venture a guess.

SENATOR CONNORS: Does it amount into the millions, billions?

COMMISSIONER LaVECCHIA: I haven't looked at those numbers--

SENATOR CONNORS: So we're talking about two years.

COMMISSIONER LaVECCHIA: --Senator, so I can't even--

SENATOR CONNORS: I don't think it would be billions.

COMMISSIONER LaVECCHIA: I don't want to venture a guess.

SENATOR CONNORS: As I mentioned, I think it really should be looked at very closely. I am -- coming from the coast, certainly want all the people along the coast to have access to insurance on the one hand. On the other hand, insurance companies, whether they be the State or whether they, in my humble opinion, be private companies, are only as good as when there is a claim. That's when you know what the real value of whether the company is a good company or they're not meeting their obligation. Certainly, if it were, in my mind, up to the Legislature then to appropriate sufficient funds should we have a catastrophic loss, I wouldn't want to see the State fall short of that. And I was wondering if there's been any consideration from the Committee with regard to a Catastrophic Loss Fund that would specifically address these needs for reinsurance or similar to reinsurance.

COMMISSIONER LaVECCHIA: Senator, we do have the Administrator here with us. Perhaps, he could address some of those questions for you with regard to numbers available in the event of catastrophic damage and-- I could tell you that I have not personally met with the Administrator to go over your specific policy questions in terms of further planning for State resources being added to any available pool of money should one every become necessary in the future. We have not engaged in that discussion, at least not in the last couple of months.

ASSEMBLYMAN ASSELTA: Would you like the Administrator to come up?

SENATOR CONNORS: If he has the figures. I'd like to know what this -- 27,966 policies under the FAIR Plan covers. What's the coverage that the State now is taking these premiums and protecting?

COMMISSIONER LaVECCHIA: You would like me to get the Administrator up? Yes. Sure.

ASSEMBLYMAN ASSELTA: Yes. Could you bring the FAIR Plan Administrator up, please?

COMMISSIONER LaVECCHIA: Sure.

ASSEMBLYMAN ASSELTA: Welcome.

For the record, would you state your name and your position.

R A N D Y B E C K: My name is Randy Beck. I'm President of the New Jersey Insurance Underwriting Association. We serve as administrators of the WindMAP.

ASSEMBLYMAN ASSELTA: Okay, Mr. Beck.

The Senator has some questions for you.

Senator.

SENATOR CONNORS: Number one, I understand there's 27,966 policies, probably give or take a few more, maybe even a few less, at the close of 1998. What is the obligation that those policies would cover? How much insurance does that represent, dollars and cents? Do you know that?

MR. BECK: Senator, I have not seen the exhibit that you're referencing, but we do have an inforce unit count document in the coastal area zip codes -- around 27,000 policies sounds approximately correct to me. That document also provides us with the total limits of insurance. I don't have that number in front of me. I would hate to hazard a guess. It is on the hundreds of millions to, perhaps, billions of dollars.

SENATOR CONNORS: For some crazy reason, I think that it's germane to this issue what our exposure is, what the State's exposure is, with

regard to those 27,966 policies. That's number one. Number two, I'd like to have those, if I may? And I'd also like to know, how much is held in reserve? When I say in reserve, how much is available for what would normally be considered in the private industry as reinsurance or maybe not just-- The terminology may be wrong as reinsurance but could be used to pay clients.

MR. BECK: Senator, we don't operate as the typical insurance company does. The FAIR Plan has upgraded an added deficit. It has lost money every year in its existence for 30 years now. Recently, the process was changed so that the operating deficit is apportioned to member companies in relationship to their voluntary writings in the state. We assessed the member companies for \$12 million approximately a year and a half ago to pay our estimated operating losses. Should we operate at a deficit again this year, which we currently are and expect to, we will again assess the member companies for that operating deficit. There is a limit to that assessment, currently, at \$35 million for any one policy year. So that would be \$35 million assessable to the companies after the exhaustion of all the varied premium and investment revenues. Our current premiums are around \$23 million. So we would exhaust all of that money, then assess the member companies up to a limit of \$35 million.

SENATOR CONNORS: How much of that could be used to cover the claims if they were catastrophic?

MR. BECK: The only thing it would not be used for would be the expenses to operate the Association. Our expense shows this year, I think, probably around 6 million in total. So everything but 6 million would be used to pay losses roughly.

SENATOR CONNORS: Out of the 27?

MR. BECK: I'm sorry, sir.

SENATOR CONNORS: Out of the-- Did you say 27? Out of the 27 million?

MR. BECK: Twenty-three--

SENATOR CONNORS: Twenty-three million. Okay.

MR. BECK: Twenty-three million is approximately our estimate of written premium this year. That's how much money we expect to take in from policyholders.

SENATOR CONNORS: So we really don't know what the exposure is until you do the figures.

MR. BECK: I don't have it at my disposal right now, Senator. We have that document. I could make it available tomorrow.

SENATOR CONNORS: Let me put it a different way, and perhaps, you would understand where I'm coming from. I don't think we should be -- the State should be put in a position of having to -- even though it involves people along the coast, should be put in a position of us insuring a liability in the event of a catastrophic loss taxing the rest of the state. The plain fact of the matter is we don't do that in my estimation when we got away from that with the regard to the JUA and the MTS. Now, it seems like we're getting right back into that same mode again where the State's being involved in an insurance business. We want to deliver insurance to the people at the lowest possible cost, in my view, with regard to private companies on the one hand. On the other hand, it seems like we're at risk. The State's at risk. Am I wrong in assuming that?

MR. BECK: I'm not an actuary, Senator, I manage the--

SENATOR CONNORS: Well, neither am I.

MR. BECK: --day-to-day operations, but the premium revenue of approximately 23 million is available to pay claims. Then we can assess the member companies up to an additional 35 million. What the probability of loss is above that combined number I could not hazard a guess. I have no idea.

SENATOR CONNORS: Okay, let me put it a different way.

That's a total of 58 million, and you got 27,000 policies out there. If they had a catastrophic loss, where would the rest of the money come from?

MR. BECK: I honestly don't know, Senator. Above assessing the member companies, I think, as the Commissioner mentioned, there is an Insurance Development Fund that is the next avenue of recovery to my understanding.

SENATOR CONNORS: Do you feel, sir, that this Task Force to study this should be looking in a direction where we can bring private enterprise and private insurance companies in here to start to assume this burden rather than the State be involved in it?

MR. BECK: I think it's one of the recommendations of the Governing Committee that there be an effort made to bring more private carriers into the state to spread the coastal risk among a larger number of companies.

SENATOR CONNORS: I have no further questions.

ASSEMBLYMAN ASSELTA: Thank you, Senator.

Just to follow back up on that. I guess, Mr. Beck, what the Senator is trying to find out here is that you have at your disposal roughly \$52

million in case of a catastrophic event. After your operating costs are paid, your 6 million-- Now, if there is an event that could cost 100 million, we're \$48 million in the hole as the State of New Jersey.

MR. BECK: As my understanding is, yes, the limit on the amount of monies that I can assess the member companies is 35 million. And beyond that, the responsibility is that of the Insurance Development Fund.

ASSEMBLYMAN ASSELTA: Okay.

Thank you.

Mr. DiSimone.

MR. DiSIMONE: Do you have any statistic as far as the loss ratios or the concern for the last couple of years for FAIR Plan?

MR. BECK: I hesitate to speak from memory, but again it's something that could be produced. We have that information.

MR. DiSIMONE: Give it in average numbers.

MR. BECK: The loss ratios are running in the high 90s to an excess of 100 percent. The combined ratios which include our operating expenses for the past several years, I think the lowest has been 121. The highest has been over 200.

MR. DiSIMONE: When you say including the expenses, would you be able to give us something without expenses?

MR. BECK: Yes, we could do that.

COMMISSIONER LaVECCHIA: Mr. Chairman, if I may make a suggestion.

ASSEMBLYMAN ASSELTA: Yes.

COMMISSIONER LaVECCHIA: I know that members of the Task Force have great interest in getting some nitty-gritty operational figures of the FAIR Plan. If we could possibly get a list of questions, then I'm sure Mr. Beck and, through the Department, we can give you all of the operational data that you seem to want with regard to the FAIR Plan, sums of money available in the event of a catastrophic incident in New Jersey, and we could make that available back to the Task Force I'm sure within a week. This is all data that's available to the various people and entities that are involved in administering and looking at this plan. We just frankly didn't know that the Task Force would be interested in having that information today.

ASSEMBLYMAN ASSELTA: Well, we appreciate the impromptu testimony by Mr. Beck. That maybe just about the last question.

Is there anybody else?

This has triggered quite a bit of interest. Why don't we just proceed a little. We don't expect you to have every answer. Just please be honest and if-- In fact, we're taking notes here, and we'll develop a question plan for you. This is a rare opportunity for this Task Force to have you in front of us, and we appreciate your being here, and we'll be very gentle.

Senator Connors.

SENATOR CONNORS: Thank you, Mr. Chairman.

Commissioner, in no way are my questions pointed to cause you any embarrassment whatsoever.

COMMISSIONER LaVECCHIA: No. It's not taken that way.

SENATOR CONNORS: The fact is that we're charged with the responsibility to look into this and make a report to the Legislature and make

some recommendations that will fall in the line to make sure that New Jersey and its people will be able to have insurance, number one, and to try to make it as affordable as possible. That's where I'm coming from. It would seem to me, at least just chatting with you for a moment, that those figures are going to be very, very important. Because after all, doesn't all insurance companies-- In fact, wherein an insurance company looks at maximum risk, how much you're sticking your neck out to insure a place for and what a company is going to insure the place for, so that they'll be assured that the premiums will cover that over a broad spectrum of the insured and return a profit. I didn't even get into the profit motive here with regard to the FAIR Plan, but the plain fact of the matter is it would seem to me that those were really pertinent to where this Task Force is going to go and what it's going to do or what the Legislature -- where it's going to go and what it's going to do.

The thing that concerns me the most, at least at this juncture, is that I feel that there is a window of vulnerability that doesn't belong with regard to the State. Now, I hope I would be wrong. But there is a window of vulnerability, and it would be subject to the movement of the Legislature and the Governor of this State to cover losses that may occur in the coastal zone. And it certainly-- I wouldn't want the people that I represent in the coastal zone to put their head on the pillow at night and think they're insured only to find out that, God forbid, some form of storm would cause probably \$100 million worth of damage and leave the bill to the Legislature and the Governor's State to come up with the 48 million. And 100 million isn't really an awful lot of money these days when we see some of the things that are being

built and how the cost of them are along the shore. So that's where I'm coming from

It's not to embarrass you. I didn't mean to ask a question. I thought you probably might have some of those answers, but I'd like to take a look at them. I think they're really germane to the issue.

COMMISSIONER LaVECCHIA: I absolutely agree to the safety and soundness touched on before of why we regulate insurance companies to make sure that the money is there when the claim is presented. That's our concern for the consumer, so we're happy to make that information available to you, Senator. I just want to make sure of a complete list of all the information that you're interested in having.

ASSEMBLYMAN ASSELTA: Thank you, Commissioner.

Any other questions for the Commissioner?

Mr. Doll.

MR. DOLL: Yes. It was actually, I guess, more for Ms. Harrison. She was beginning to talk at the end there about the surplus-lines companies.

By way of background, my name is Don Doll. I'm an Ocean City real estate broker. And, of course, we're one of those 18 zip codes that has difficulty finding standard-line companies that want to do business in Ocean City. My concerns aren't really as much about the FAIR Plan because we've gotten away from that a long time ago, and it seems like everything we're doing basically is surplus-lines coverage.

I think Ms. Harrison was saying that she was trying to get some ideas to -- comparison of the surplus lines versus the standard. I own two duplexes down there. One property I had for 15 years, demolished it, and

rebuilt it. I had a standard-lines policy on that building for which I had a premium of \$1200, a \$250 deductible, and a 1000 deductible for windstorm. Last year, I built another one further from the beach, identical size square footage. The premium on that is \$2200, so it's a little better than \$1000 more, but the real kicker is that the deductible there is \$1000, and I have \$6000 deductible for windstorm and water damage. Now, what water damage and broken pipes has to do with Hurricane Andrew or Hugo I really don't know, but that seems to be rather distasteful, I guess, to have a deductible that high when you're paying twice as much money in the way of a premium.

I think my question is, while you've gone to great depths here to check out if the FAIR Plan is doing it, are you really looking at what kind of program or information for us as to what surplus-line companies are doing?

MS. HARRISON: Well, that really was the purpose of our meeting with the Surplus-Lines Association -- was to take at least an initial step to get beyond what really has been just added goal reports in terms of what's been going on in the market with surplus-lines companies in terms of how much business they write and what the attributes of those policies really are. As I mentioned before, the kind of data that we're going to collect should give us a better understanding. The information that we will receive should give at least on a snapshot sort of basis an idea of what they're writing in terms of different locations and how close to the shore their activity really concentrates on and, also, what people are being charged for those policies and how much different are the kinds of coverages and the kinds of deductibles that you get with the surplus-lines company from what you might ordinarily get so that we can get beyond just hearing reports from people in terms of, "Well, I have

this,” and then next year, “Somebody had that.” Because that’s what we’re hearing at the Department, too, and I think at this point that’s just not good enough at this point. We need to know definitively what is going on with that side of the market, and we really have not had a way of doing that.

So, hopefully, in the next few weeks, we have a little bit better information that we can report to the Task Force on that.

MR. DOLL: Surplus-lines coverage is something that I really just don’t fully understand. Being a real estate broker, certainly the Commissioner does -- we all play by the same rules. I understand for some reason in the State of New Jersey the standard-line companies play by one set of rules, surplus-line companies play by another set.

MS. HARRISON: Sure. Sure.

That they’re regulated completely differently. I mean, surplus-line company people will tend to think of the Lloyd’s of London and that’s surplus lines. And it’s something that was basically designed to provide coverage in those areas that the admitted market typically could not service. So there’s a lot more flexibility accorded surplus-lines companies in terms of the kinds of products that they use and the premiums that they charge. And on the homeowner’s side of it, even more so, that’s a prior-approval rating system. It’s that they’re just not even comparable.

MR. DOLL: I’m sorry. When you say prior-approval rating system, does that mean--

MS. HARRISON: For homeowner’s insurance. In other words, on the commercial-line side, there’s more flexibility where a company may be able to do certain kinds of policy forms, or they have freedom in terms of rate

control if it's a certain kind of risk. On the homeowner's side, all of the rates, rules, and forms are subject to the Department's prior review and approval of them before they can be implemented. That's not the case, generally, on the surplus-lines side where we look at policies more on an exception basis really in terms of certain things that we would not permit to be in a policy.

MR. DOLL: I just wonder how the public really perceives those and that they are really aware of the deficiencies that are in some of those policies. As I was mentioning to one person, the standard-line policy is about 18-pages long. The Lloyd's of London policy is 42-pages long, and I don't think I'm getting extra protection in those additional pages.

MS. HARRISON: Sure.

Yes. It's a question of what questions people ask, and what they're being advised. I think you have the same kind of problem potentially with the FAIR Plan. I think it's always open to question in terms of how well-aware people are in terms of the differences between the FAIR Plan policy and what they would get in the typical homeowner's policy. Because I think that you have the same problem on that side of it.

MR. DOLL: Thank you.

ASSEMBLYMAN ASSELTA: Anyone else?

Mr. DiSimone.

MR. DiSIMONE: Where does the Guaranty Fund be involved with FAIR Plan or not with FAIR Plan in the greater scheme of catastrophic loss? Are they involved in any way with FAIR Plan, the State Guaranty Fund?

COMMISSIONER LaVECCHIA: Not really. No.

MR. DiSIMONE: No.

ASSEMBLYMAN ASSELTA: Mr. Auerbach.

MR. AUERBACH: Commissioner, I would like to ask again an entirely non-FAIR Plan-related question. In some of our earlier hearings, we heard from some Realtor groups that suggested the possibility of a tier-rating system for different premium structure for coastal areas. I was just wondering what is the Department's opinion of that.

COMMISSIONER LaVECCHIA: That would make me pause before we went down that path. At one time in New Jersey, I think all the, generally, homeowner policies had one rate per state. That's no longer true in New Jersey. Several companies have moved toward a more variable rate structure that does take into account general regions of the state, but I am not aware of any rates that we have approved right now in the state that have carved out for specific rate adjustment. The shore communities -- and, as you know, rates are not allowed to be discriminatory. We'd have to look very carefully before we moved in that direction. We have not yet in New Jersey, but there are some rate differentials for some companies -- such broad categories as the whole southern portion of the state. When I say a few, I think maybe at most a handful.

MR. AUERBACH: Thank you.

COMMISSIONER LaVECCHIA: You're welcome.

ASSEMBLYMAN ASSELTA: That's not like the urban-suburban thing.

COMMISSIONER LaVECCHIA: No. No. It's not like the rating territories that you've heard of and are familiar with from the automobile

setting where they're numerous and controversial. Not so on the homeowner side.

MS. HARRISON: But we are seeing companies move more to where they may reconfigure territories in line with certain zip codes, which is something you did not really see in the past. I mean, there were some companies that had a statewide rate. Other companies, probably most of them, are still using the ISO-type rating territories for homeowners, but more and more you're seeing companies that are beginning to try to craft systems that are different than that.

I would want to take a moment just to try to go over what I think might be a little bit of confusion on the FAIR Plan Inforce Policy information on Exhibit I. It is correct that if you look at this data from 1996 -- the end of 1996, which is the very beginning of WindMAP, that the FAIR Plan is larger now than it was then, but I think that you also need to look at what has happened more recently and look at the changes from the prior year. Because what you can see when you look at that is that, if you look from '96 to '97, that is when you had a really large growth in the FAIR Plan, and that has come down dramatically in the last year. And it is also in that last year that you see the actual turnaround in the data in the 18 zip codes where it has actually become negative. So I think the picture is a little more positive than what you would see if you look at just the total of year-to-date.

ASSEMBLYMAN ASSELTA: Good point. Thank you.

Senator.

SENATOR CONNORS: I'd like to explore surplus lines for a minute. That kind of triggered my inquisitiveness. How is that applied to homeowner's insurance? Surplus lines, is that the same as high lines?

COMMISSIONER LaVECCHIA: Surplus lines are nonadmitted companies.

SENATOR CONNORS: Pardon?

COMMISSIONER LaVECCHIA: Are a nonadmitted company. So they're not admitted to write in New Jersey generally. Therefore, they're not subject to our rate requirements, to our form requirements, as Ms. Harrison had indicated before. You can write insurance of surplus lines when there is demonstrated to be an inability to get a particular coverage through an admitted company. So it's a form of last resort coverage. It's being used in the homeowner setting in two ways. One, some people are purchasing surplus-lines coverage to enhance the coverage they are obtaining through the FAIR Plan. So they get things that are excluded from the FAIR Plan coverage picked up through the surplus-lines company. Other individuals are not getting any of their homeowner's coverage through the FAIR Plan or through any New Jersey-admitted company and are receiving all of their homeowner coverage written by a surplus-lines carrier that's not admitted into New Jersey.

So that's why you will see very significant rate differences, form differences if you were to compare a policy that was provided to your neighbor and had been obtained from a surplus-lines carrier, as opposed to your neighbor on the other side who maybe obtained coverage through Allstate,

admitted to writing New Jersey, and is writing homeowner's coverage in the shore area.

SENATOR CONNORS: In my terminology, does that sound familiar, high lines as the same as surplus lines?

COMMISSIONER LaVECCHIA: High lines?

SENATOR CONNORS: No.

COMMISSIONER LaVECCHIA: No.

SENATOR CONNORS: No.

What is high lines?

COMMISSIONER LaVECCHIA: I'm not sure what you mean by that, sir.

SENATOR CONNORS: I can recall, as a legislator several years back, there was a company called Ambassador Insurance Company. They wrote high lines of insurance, or surplus-lines, in my view, is probably one in the same.

COMMISSIONER LaVECCHIA: Maybe it was a term.

SENATOR CONNORS: They insured particularly police departments and sheriffs departments, etc. We allowed them in the state. They were writing; then, there was-- They collapsed. There were a number of claims. To my memory, it ran into the millions and millions of dollars of which there were assessments on every policy. Do you recall that situation?

COMMISSIONER LaVECCHIA: What you're describing is another example of a surplus-lines carrier, Senator.

SENATOR CONNORS: So it really is--

COMMISSIONER LaVECCHIA: It's a form of coverage that was ended.

SENATOR CONNORS: My terminology of high lines is probably the same as the surplus line.

COMMISSIONER LaVECCHIA: Yes. I was just was not familiar with the--

SENATOR CONNORS: How are we protecting the public from that ever happening again?

COMMISSIONER LaVECCHIA: We have a surplus-lines fund in New Jersey that is available to-- It's a Guaranty Fund, and it picks up surplus-lines carriers who may become insolvent and who need their policyholder claims covered so that it still exists in New Jersey for surplus lines.

SENATOR CONNORS: Any other questions I should be asking with regard to that you think?

COMMISSIONER LaVECCHIA: If you would like a general background on how surplus lines are being used in New Jersey and what protections are available, I can provide you with plenty of background information from the Department, Senator.

SENATOR CONNORS: Commissioner, here again, if it didn't happen -- and I voted in that situation with Ambassador, and the State was on the spot. We had all these people out with claims against Ambassador, and Ambassador had no way of paying those claims. I think there was like over 3000 claims that Ambassador was holding, and they went under. What I'm saying is, I don't know whether that's an unreasonable question to ask with

regard to surplus lines. How are we protecting ourselves from that ever happening again?

COMMISSIONER LaVECCHIA: Well, as I said before, we still do have a Guaranty Fund for surplus-lines carriers who may become insolvent. That fund would kick in if we had a surplus-lines carrier who wrote in New Jersey and became insolvent. Those policyholders would be covered through that guaranty protection.

SENATOR CONNORS: I don't want to get involved with it, but now I understand that there are surplus-lines companies that are writing in the coastal area when they can't get enough insurance or because they're in a hazardous area -- high-hazard areas. I didn't know that.

Thank you.

ASSEMBLYMAN ASSELTA: Any more questions for the Commissioner or Ms. Harrison? (no response)

Thank you very, very much, Commissioner, and Ms. Harrison. Very productive, very informative, and we look forward to gaining more material, more information as we move forward in this process. But once again, thank you very much.

COMMISSIONER LaVECCHIA: You're welcome.

ASSEMBLYMAN ASSELTA: And you're welcome to sit up here.

COMMISSIONER LaVECCHIA: Thank you.

ASSEMBLYMAN ASSELTA: The next person I'd like to call forward for testimony would be Mr. Leon Zimmerman, Professional Insurance Agents of New Jersey.

LEON ZIMMERMAN: Thank you, Mr. Chairman.

The Professional Insurance Agents of New Jersey submitted testimony to this Task Force at the hearing in Ocean City, and we would like to have the opportunity to basically summarize some of the issues originally. I've provided you another copy of that statement. Originally, when I asked you the opportunity to testify today, I didn't know that I'd have with me today Mr. Andy Harris, who is the President of the Professional Insurance Agents of New Jersey and a recognized, knowledgeable person on this issue in our state. So I'm going to turn it over to him rather than get into it, but he wants to basically summarize our position without reading per se the testimony and concentrate on a few of the highlights.

ASSEMBLYMAN ASSELTA: Thank you, Mr. Zimmerman.

Welcome, Mr. Harris.

ANDY HARRIS: Thank you. Good afternoon.

It was interesting when I was listening to that discussion just before when you were talking about the need for reinsurance and what would happen if. That was sort of what prompted this whole thing was the Hurricane Andrew in 1993. Insurance companies started doing computer modeling and said, "What is my PML, or probable maximum loss?" That's the worst-case scenario that would happen if something does come through and hits Asbury Park, let's say, is ground zero. And, really, that's what prompted all of these different imaginations that are going on inside the industry today.

One of the key things that I think we ought to be cognizant of is that New Jersey competes for capacity in the United States. And when I say competes for capacity, I mean that insurance carriers do business in many states and actually all around the world today and that New Jersey is

competing for those dollars. We're competing for the carriers to put up those dollars as insureds' payouts -- potential payouts, called surplus. It's the surplus, I think, that the Senator was looking for. Where is the surplus? But where's the money going to come from if a hurricane hits New Jersey, a big one? And we're talking about billions and billions of dollars.

Well, of course, the FAIR Plan would be in very deep trouble. It would go through its full limits, and the insurance carriers, of course, would pay their share. But what would also happen, of course, every other insurance company, all the regular insurance companies, and everyone else who writes insurance in New Jersey would also be facing cataclysmic-type losses in the hundreds of millions, maybe billions, of dollars. A tornado, I think, just recently was 1.5 billion out west. So you could be talking very large dollars, and the insurance industry started looking at what happens if this happens. And, of course, the first thing that insurance companies look to do is say, "Are we getting enough rate to cover that loss, or do we have deductibles that will help mitigate this very large loss?" It's rare that hurricanes or anything causes total losses of property. They usually cause partial losses. And when you can instill a deductible that softens the claim against the carrier and keeps claims from just being overwhelming to carriers -- we have the FAIR Plan, the surplus-lines admitted carrier -- it makes it a more manageable exposure for the insurance industry.

Now, I'm an agent. I'm not a shill for the insurance companies, so I'm not looking to do anything other than to be able to have carriers in the state that I represent that are willing to write business. The message that, obviously, you keep hearing is that if we can get more money and become

more attractive from an insurance point of view, as compared to other states, more carriers will come into New Jersey and provide more capacity, thereby reducing the burden on the FAIR Plan, thereby reducing the burden on the taxpayer. So a long story short, the best thing that would happen in New Jersey is that other insurance companies come in, charge a fair, reasonable rate, one, coincidentally, that was probably less than a surplus-lines carrier is charging today, and provide uniform deductibles, ones that all consumers understand that are not variable per carrier -- per carrier -- but uniform across the board and that the consumer would have an ease and the agent would have an ease to place business for carriers, for consumers, throughout many companies less than they're paying now through surplus lines.

So clearly it's a multifaceted, very complex issue. It's dealing in computer modeling. It's dealing with distribution systems, dollars that are being competed for with other states and actually other countries. I think that the tiered-rating concept certainly has a lot of merit in that there are different exposures in New Jersey. Those properties that are very heavily exposed to windstorm, hurricane probably have a higher-rate need than those backstreets or buildings. Many carriers today will write buildings and will write homes that are back several properties if there's an intervening structure. The real exposure for a hurricane and windstorm is the first one off the water. Those behind it have less and less and less exposure. So, yes, there are carriers that will write properties that are back from the water. They're not lined up to do it, but if you look hard enough, you can find them.

Barrier islands is a problem. There are areas that there is just very, very few carriers willing to write this, and that's probably a residual market

exposure, meaning a FAIR Plan or surplus lines, until the industry recovers from Hurricane Andrew. It does seem that the collective memory of the insurance industry seems to wane and cause you to get farther and farther away from a major loss like Hurricane Andrew. It wouldn't surprise me that many years from now, maybe five or ten years from now, that carriers will be competing again for the same business that they are shunning today.

So there are other ways, too, that consumers can help, and that, obviously, is through mitigation. Carriers are much more likely and it's easier for us as agents to place risks that have certain risk characteristics, such as hurricane shutters, construction codes that are built to modern standards, or retrofits on older homes where the consumer has worked to actually lessen the exposure in the event of a storm. That makes it easier for the agent to place the coverage. It's still difficult in some areas, and in some areas it's impossible regardless of what you do, but the risk characteristics do play an important part, and that is something that the consumer has to look at as well.

There have been ideas suggested that maybe when real estate is transferred on older homes -- new construction doesn't seem to be a problem for building codes because the codes are pretty good right now on new construction, but older homes, perhaps before you transfer the property, there might be some form of encouragement to have the people upgrade systems or have some sort of discounts from insurance policies to help pay for those upgrades for lower premiums or improved mitigation steps.

The last thing was a suggestion that was made, I think, for these deductibles. Sometimes the deductibles for heavily exposed properties might be high. They might be percentage deductibles maybe as high as \$5000 for a

property. Someone suggested that perhaps one way to address this would be to allow carriers to charge deductibles that are fairly meaningful, maybe even higher than 5000, if the insured wanted to -- the customer wanted higher deductibles in exchange for lower premium recognizing that a hurricane is probably -- that we're talking about -- is maybe a one in every hundred-year event, and that you're only going to own that home for a slice of that time. So if you had the capacity to absorb that higher deductible for a lower premium, it might not be a bad choice as a consumer to self-insure or take a higher deductible -- that fixed limit.

One of the suggestions that I was referring to was perhaps partner with your bank and your mortgage in saying that should that event occur, you would have a preapproval, and you can even look at making this requirement of a mortgage to offer that deductible as part of the existing mortgage. So let's say we have a \$5000 loss and \$100,000 mortgage for a term of 20 years. If that hurricane occurs and the deductible happens, the insured would be instantly be able to apply for that loan. It would then pay back the mortgage company that loan of the \$5000 deductible over the term of the loan. The probability is it's not going to happen. The consumer is getting the lower premium, getting the insurance available to them, and if the worst-case scenario occurs and they have to pay a \$5000 deductible and doesn't have \$5000 to pay right now, they would be able to add that to the mortgage, as so many people do right now adding increased mortgage for home improvements or whatever. But it would be preapproved and a requirement of the mortgage lender, as long as the mortgage was in good stead. In other words, the mortgage payer was paying each month, and it was approved. So these are just

ideas that several people have come up with that seem to be fairly good ideas as far as helping this problem through.

I think that really summarizes what we had said the last time. The FAIR Plan -- what you started on the conversation, I know my Association has long supported increases in rate for that because it does seem that if you operate at a deficit, sometimes it's difficult to get rate increases, but if it's constantly running at a deficit, again you're passing that bill to voluntary carriers. If the goal is to get more voluntary carriers in, it doesn't make it appealing to them to constantly be paying for a competitor who has lower rates than they're offering. So it's just a circular logic.

But that was basically a summary of what we have submitted previously, and I don't know if you have any questions I might be able to answer.

ASSEMBLYMAN ASSELTA: Well, thank you, Mr. Harris. Thank you for the reinforcement and many of those suggestions. They seem to be reinforced over and over again by a great deal of testimony.

Any questions by the Task Force members? (no response)

No questions.

Thank you again for coming forth in the last meeting.

MR. HARRIS: Okay. Thank you.

And one other thing, the 1908 bill was something that we also felt was a good idea.

ASSEMBLYMAN ASSELTA: Okay. Thank you.

Next bit of testimony, Mr. Thomas Heist, Thomas H. Heist Insurance Agency, Ocean City, New Jersey.

Welcome, Tom.

THOMAS H. HEIST: Thank you. Good afternoon.

ASSEMBLYMAN ASSELTA: Good afternoon.

MR. HEIST: Can you hear me?

ASSEMBLYMAN ASSELTA: Okay.

MR. HEIST: As I said, my name is Tom Heist. I'm the President of the Thomas H. Heist Insurance Agency located in Ocean City. Although I'm a member of the Independent Insurance Agents of New Jersey and also the WindMAP Governing Board, my comments today are that of a coastal insurance agent and not with any role I have on either of those two boards.

Our Agency has approximately 30 people. We represent six major carriers and have access to many more insurance companies. About 50 percent of our revenue is personal-lines insurance, and the other 50 percent is commercial-lines insurance. And today's meetings are only with regard to the personal-lines insurance, as you know that. Our business territory along the coast ranges from Cape May up to Long Beach Island but mainly up towards Brigantine, so we think of our coastal territory as being the bottom third of the state.

I've analyzed the coastal insurance problem, and I think it's more understandable if it's broken down into three stages. And I'm going to go back in time a little bit to give you a relational basis of where we were and how far we've come. I think the earliest stage was back in 1990 and '92 when the hurricane Hugo first struck South Carolina, caused about \$6 billion in damage. In '92, Andrew caused about \$25 billion in damage. I think those damage estimates are relevant when you consider that up until that point in time, the

entire industry never experienced more than \$4 billion in losses in any one year when you combined all losses together. So it was really a shock to the industry, and that's why we're where we are today. At that point, the standard market -- many carriers did go out of business, and those that did left the coast very quickly. And insurance became very difficult to buy, and availability was extremely limited.

Moving into the next stage was the stage, I think, of opportunity for the surplus-lines companies that we've talked about today and the Lloyd's of London companies. They come in when they see an opportunity of hardship and lack of insurance, and they price three basic personal lines products. One is geared towards an owner of a home. Another product was geared towards an investor or a landlord, somebody who buy a condominium unit and rent it out to people who were visiting along the coast. And the third type would be a renters or tenant-type policy. These policy forms were pretty comparable in coverage. I would say a little bit more limiting, as Mr. Doll mentioned earlier, but pretty comparable in coverage.

However, the premium was two to three times more expensive. To give you an example, if we had a \$500 policy that was written through a standard-line company that if a new customer came into our office, the cost through the surplus-lines company would be \$1000 to \$1500. So the customers' policies who could renew were paying 500, the people who came in for new business, it would be somewhere between two and three times the premium. The deductibles, also, were higher where we had a \$250 to \$500 deductible through a standard company. The deductibles went to between 1 percent and 5 percent of the home's property value. So if you had a \$100,000

home, the deductible would be anywhere between 1000 and 5000. The \$5000 deductibles usually were put on the homes that were right along the first line along the beach.

At that time, the FAIR Plan also became attractive as a market, and it really became attractive to two types of buyers. The first buyer was someone who really didn't want to spend a lot of money for insurance, and they knew they could buy basic, cheap insurance through the FAIR Plan. They really could buy it cheaper through the FAIR Plan than through a comparable product from the surplus-lines companies. It kind of reminds me of the old JUA days where you price a product cheaper than the marketplace, and then the losses start to pile up, and there's no money there to pay the losses.

So the first customer was someone who wanted cheap insurance, and the second type of customer would be someone who wanted a more comprehensive policy but had to buy the FAIR Plan policy first and then a wraparound product to make that policy equal in coverage to the old standard carrier. But again, during this second stage, the standard market availability was very, very limited.

Moving into where we are today, which I consider the third stage of this process, is the surplus-lines marketplace has become very soft. They want more and more business. Where the standard companies want to get away from the business, the surplus-lines companies see opportunity. And now they're starting to fight each other for the business. And those premiums that used to be two to three times the standard premium are now 20 percent to 30 percent higher. So if a standard-line premium is \$500, today it's \$700 or

\$800. It's not the dramatic price increase that it was even a year ago. I'm giving you new information of pricing within the last few months.

And deductibles have decreased as well. Deductibles are ranging between \$1000 and \$2500 today, where it used to go up as high as \$5000. So we're seeing a definite softening of that surplus-lines market. The FAIR Plan, at least in our Agency, our numbers are decreasing as well, where even a year ago and two years ago where we had a high volume of people who purchased FAIR Plan policies, in the last year we've seen those numbers decrease by 28 percent when you're looking at a pure policy count. So if I had 100 policies last year, this year I'd have 72 policies. And I anticipate at the rate we're going, by the end of the year, our numbers could be maybe 80 percent less than last year. So for every 100 policies we had last year, by the end of this year we might have 20. So we're seeing a dramatic shift of business leaving the FAIR Plan and going into other products.

Now the question is, where are these policies going? And it's really a spread. We have some business that is moving towards the surplus-lines and Lloyd's policies, where again the pricing is much lower than it used to be, and we have standard carriers that also have opened their door and agreed to, number one, depopulate the FAIR Plan and help to write new business along the coast. So our Agency is seeing a definite relaxation of what used to be considered a tight insurance marketplace.

To conclude, I would say there is definitely no insurance availability problem today. The key word is availability. There's not one person, one consumer that I've had in two years who've come into my office and I did not sell insurance to. So the question is -- is price. Are we sitting at

our tables today trying to decide how much is too much for insurance? The old price maybe was \$500. I don't know what the future price is going to be. Maybe that price is going to 750, maybe it's going to be 1000, but I think the surplus-lines market and the standard-line market has done a pretty good job over the year of acting as a checks and balances for each other.

I would suggest that if the Department or the Legislature is going to look towards any solution that it be in the area of a catastrophe fund, and maybe that catastrophe fund would address the problem of the open window of vulnerability for the FAIR Plan assets where a catastrophe fund might be tapped into if the State's funds run out through the FAIR Plan or if a company reaches a certain level of losses and they have not purchased enough reinsurance. But I think over time -- the problem has started to shake out and maybe correct itself.

And again I thank you for your interest.

ASSEMBLYMAN ASSELTA: Thank you, Mr. Heist.

Any questions from the Task Force?

Yes, Mr. Doll.

MR. DOLL: Just one, Tom.

With the surplus-lines policy, have you had any occasions where you had suffered losses with those policies, and if so, do those folks come to the table and pay off as readily as the standard-line company would?

MR. HEIST: To this point, our number of losses has been very low. We have not had a lot of losses because the coast hasn't experienced any major storms. The few losses that we've had may have been a fire-type loss, and we've had no problem adjusting those losses. If in the event that we have

a major catastrophe or even a northeaster, our Agency is going to be interested to see how quickly these surplus-lines companies can get out and adjust these losses, but we haven't had any experience in that area.

MR. DOLL: If you did have a problem at that time, who would you call?

MR. HEIST: It's a good question.

MR. DOLL: Thank you .

MR. HEIST: I think we would probably try to work out those problems ourself. These are insurance companies. I mean, they're not people who decide they're going to open up an insurance company and put a sign up and start selling insurance. I mean, even though they're not governed by the rules and regulations of the State of New Jersey, there's a lot of money behind these companies, most of it foreign money. We're hoping, if there's a New Jersey Guaranty Fund of \$250,000 in the event that one of the surplus-lines companies does go out of business-- So I don't anticipate that we would have a major problem that would not be resolvable.

ASSEMBLYMAN ASSELTA: Mr. Heist--

Do you have a question?

Ms. Harrison.

MS. HARRISON: Tom, on your FAIR Plan book of business, when you were talking about how it's been dropping, is that in terms of new people coming in the door that you might last year have had to put in the FAIR Plan, or are you talking about that in addition to your existing book of, say, FAIR Plan insurance?

MR. HEIST: That's total policy count, and we continue to write business at a very high rate. So most of that business would be continuation business because I would say we're not placing business in the FAIR Plan today for new customers. If a property is in poor condition and belongs in the FAIR Plan, which is the market of last resort, then it's going into the FAIR Plan. But if I had to generalize, there's almost no new business going into the FAIR Plan today.

MS. HARRISON: So your loss is really coming out of your continuation. I'm just trying to get a fix on why it does not seem to be -- with that activity going on in terms of FAIR Plan takeout, that we're not seeing more of a shift in terms of that overall book of business.

MR. HEIST: I think it's really started to happen within the last three to four months--

MS. HARRISON: It might be timing many times?

MR. HEIST: --and once the runs start to catch up with policy count, I think you're going to see some dramatic changes, at least as far as we're concerned. I was told at one point we're the seventh-largest producer of FAIR Plan business in the state, which isn't a great feeling because as you know the FAIR Plan was designed for the urban and inner-city areas, and it's shocking that we've grown to such a large degree, but now we starting to see those numbers track downward.

ASSEMBLYMAN ASSELTA: Tom, just--

Anyone else? (no response)

Tom, just a final question, and your family has been involved in the insurance industry for a long, long time. Do you see this problem as a

circular problem? Now, today you're coming here, you're saying the problem seems to be under control, it's-- You're coming here with positive testimony, obviously. Two years ago, you might have had a whole different piece of testimony here. Do you see two years from this point on is it possible that we could be in that same circular mode as we were two years ago? And I think that's what we're trying to get at here. Things may have improved, but we don't want to have to do this all over again two or three years down the road. If you have some suggestions, we welcome it.

MR. HEIST: I would say, yes, this industry is very much circular, and that I think the compromise is in the industry understanding where the Department of Insurance is and the Department numbers stating where the industry is. Obviously, there needs to be some place in the middle where we have common ground.

You talked a little bit earlier about the modeling -- the computer modeling -- and that's really the basis why the industry has left. But in 100 years, there has not been a direct hit of a hurricane in New Jersey, and I don't anticipate that we're going to have one in the next 100, but there's modeling out there somewhere that says, if it happens, it's going to cause *X* amount of damage. The Department says, "Well, it hasn't happened; therefore, we're not going to allow the rate increases." The industry says, "Well, if it does happen, we're all out of business." So somewhere there needs to be compromise. I would say the sharing of the modeling would be maybe a major first step to that and maybe a catastrophe fund that -- where the companies knew that if *X* percent of their surplus was in jeopardy, there would be a safety net to bail them out. Because these insurance companies are for-profit businesses.

Nobody wants to go out of business because of one storm. So I think they're being prudent with their stockholders' money, but at the same time we have to think about the citizens of New Jersey.

ASSEMBLYMAN ASSELTA: Mr. DiSimone.

MR. DiSIMONE: What would you think of a plan whereby the State Guaranty Fund would somehow participate proportionately with the New Jersey FAIR Plan in a catastrophic loss if the mechanism could be put together?

MR. HEIST: As long as the funding was there, I would say it might be a good idea, but I would hate to say if the New Jersey Guaranty Fund is going to be there and stand behind the losses if there's no income stream behind it to fund it. So I think it might be a viable solution.

ASSEMBLYMAN ASSELTA: Thank you very much, Tom, for coming.

MR. HEIST: Thank you for working so hard on this problem.

ASSEMBLYMAN ASSELTA: The next bit of testimony will come from Mr. Richard Stokes, the Insurance Council of New Jersey.

RICHARD M. STOKES, ESQ.: Thank you, Mr. Chairman.

Again my name is Richard Stokes, and I represent the Insurance Council of New Jersey. We represent the numerous member companies that are in the property and casualty business. We have also testified a number of times before this Task Force to explain our views and suggestions regarding the issues before the Task Force, and we are pleased to be here today to again express our interest in helping the Task Force in this challenge. We are respectful of the responsibilities of the Task Force and the importance

homeowner's insurance has in our lives and well-being. We appreciate the extent of the Task Force review of the issues and the willingness to consider comments from all sources.

I would like to point out that our member companies are in the business, as the previous speaker had indicated, of insurance and cannot be profitable without doing a good job. Our member companies want to sell insurance and to help policyholders. But as I mentioned at the Ocean City hearing, the essence of insurance is the business of managing risks. It is important to the entire homeowner's insurance industry that the insureds, as well as the insurers -- that these risks are well managed and handled properly.

We do not take lightly the challenges facing this Task Force or the challenges facing our industry. We believe there are, however, several ready solutions that could be explored, and some of those issues or points we've mentioned before. Foremost, we believe that it is important to attract more insurance companies to New Jersey in order to add greater financial capacity to the homeowner's insurance marketplace. Attracting more insurance companies will also spread the risks and increase capacity to handle natural disasters so that no single company is at a financial risk.

We also believe that natural disaster relief is a Federal issue requiring help from the Federal government. No one municipality or state has the resources or experience to deal with the severity of storms at the level of Hugo or Andrew. We believe also implementing windstorm deductibles as a further option to consider. In addition, the cost or premiums should reflect the increased exposure homeowners face by living in the coastal areas. A

mitigation program would also help to ensure homes are able to withstand damages from some of these storms.

One of the things I think most of the speakers today have really gotten through, and the theme has been very consistent, the marketplace is working. We like to keep the marketplace working and going forward. Any response at this time from the Task Force should be measured, as the Commissioner had mentioned, and cautious to avoid disruptions to the functioning marketplace.

With that, I'll end my presentation, Mr. Chairman.

ASSEMBLYMAN ASSELTA: Any questions? (no response)

Let me just thank you, Mr. Stokes, for your participation and the industry in general for their cooperation through these hearings, and we look forward to working with you to find a solution.

MR. STOKES: Thank you.

ASSEMBLYMAN ASSELTA: Thank you.

The last bit of testimony will come from Maureen Shea, the New Jersey Association of Realtors.

MAUREEN SHEA: Thank you, Mr. Chairman.

My name is Maureen Shea. I'm with the New Jersey Association of Realtors, and I want to thank the Task Force for giving us an opportunity to sum up our comments over the last few meetings and to say that we appreciate all your hard work and dedication to come to a resolution of this problem.

The Realtors's main concern is about the moving of homeowner's insurance. Although the situation has improved, our members' experience

seems to be consistent with previous testimony that standard-line companies are still in line to write policies on the coast, and a lot of the market is being picked up by the surplus-lines companies.

We recently returned from our national convention in Washington, D.C., where there was some discussion on this very same issue and a Federal bill, House Resolution No. 21, which would establish a Federal reinsurance program. What we came back with that from some very extensive discussion from different areas of the country was that some different states are looking at coming up with a reinsurance program of their own similar to the Federal program, which is, well, not up and running as the legislation hasn't been passed, but it's been in the workings for many years. And what the Task Force may want to look at is establishing a program similar to that reinsurance program on a state level, possibly before the Federal government has a chance, since it seems that the bill goes through its ups and downs in Congress. We do have some good news. We have a Senate sponsor, as well as a House sponsor.

If your objective is to stimulate the insurance market, this maybe a good place to look, and Mr. Heist's suggestion, also, of a catastrophe fund may also be a good place to look. It also maybe, perhaps, that insurance policies should be priced commensurate with the market risk. Perhaps higher deductibles in certain zip codes or so many feet from the water or a reduction in premiums or deductibles for homes that are built to withstand hurricane forces may be another solution. We also think that the Department and encourage the Department to look into the surplus-lines companies and to investigate their actions at the coast further, since no one seems to be sure of

what would happen in a catastrophe with these companies because they are picking up such a large amount of coastal business.

With that, I would like to thank you again for all your dedication and effort and to answer any questions if you'd like.

ASSEMBLYMAN ASSELTA: Thank you.

Any questions? (no response)

Okay. Well, let me also just thank you for being there to participate in every meeting. We appreciate your input on this issue. We will look forward to working with you, the whole Task Force, to find the solution in the near future.

So thank you again, Ms. Shea.

MS. SHEA: Thank you.

ASSEMBLYMAN ASSELTA: Any final comments from the Task Force members? (no response)

Let me just briefly sum up and let everyone know where we're going with this. This is the last, final public meeting, and I would encourage--

First of all, I'd like to thank all of the Task Force members for attending and to be responsive, and I know we've drugged you from Monmouth Beach to Surf City to Ocean City and now to Trenton, and we truly appreciate your input.

In summation, I would charge you to come up with some ideas from yourself and some summations at some point where we can at some point get together for a work session sometime in the summer here to sit down in caucus and come up with an initiative of some sort, whether it's legislative or through the Department. We would encourage in the next month for you to

look through all your material, and we know it's quite a bit we've accumulated. And we will be contacting you sometime in early summer, in June, at some point to get together in a central location, and I want to believe a good location for all of us might be somewhere in Atlantic City to meet and caucus and then to come up with some solutions.

So with that being said, are there any other questions?

Yes, Mr. DiSimone.

MR. DiSIMONE: Just a final comment.

ASSEMBLYMAN ASSELTA: Yes.

MR. DiSIMONE: I want to thank the Commissioner for putting a great deal of perspective today in what we have been doing. I think her testimony and information she gave today really is assisting us in getting a well-rounded picture of what's going on.

ASSEMBLYMAN ASSELTA: Absolutely. Thank you.

I might be remiss not to thank you for attending and coming and participating in the whole meeting. We appreciate it. I know you're a very, very busy Commissioner with all the issues you have to address, and we thank you for participating today.

Any other comments? (no response)

Meeting adjourned.

(MEETING CONCLUDED)