

# NAMIC ISSUE ANALYSIS



## DEVELOPMENTS IN INSURANCE COMPANY DRONE USE

**TOM KAROL**  
GENERAL COUNSEL – FEDERAL  
NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

## TOM KAROL

Tom Karol serves as general counsel - federal in NAMIC's Washington office. Tom represents NAMIC on issues impacting property/casualty insurance companies and has primary management of NAMIC's response to federal legislation and regulation. Tom is also the leader of NAMIC's Investment Services Practice.

Tom has extensive legal, regulatory, and operations experience with major financial services companies, law firms, regulatory agencies, and Congress. Tom was a leader in Deloitte's Global Financial Services practice, president of a broker/dealer, with the S.E.C. Division of Enforcement and with the U.S. Senate Committee on Governmental Affairs.

Tom has worked directly with senior Federal Aviation Administration officials and has testified at congressional hearings on drone issues. He has been widely quoted on insurance drone issues in national media, including Fortune magazine and NPR. He was a stakeholder in the NTIA Drone Privacy Working Group and an invitee to the 2016 White House Drone Day. He is a member of the FAA/Industry UAS Safety Team, an advisor to the Property Drone Consortium and on the planning committee member for the New York state NUSTAR project.

For more information about NAMIC Issue Analyses, please visit [namic.org/issues/our-positions](http://namic.org/issues/our-positions) or contact:

Jon Bergner  
[jbergner@namic.org](mailto:jbergner@namic.org)  
Direct 202.580.6751

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*NAMIC is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write more than \$253 billion in annual premiums.*

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## INTRODUCTION

The National Association of Mutual Insurance Companies has been a leader at the intersection of insurance and drones, striving to define and refine the federal regulatory impediments to property/casualty insurers using drones for insurance services and providing protection to policyholders.

In 2015, NAMIC released the white paper “Unmanned Aerial Systems/Drones – Regulation, Liability and Insurance Requirements”<sup>1</sup> that addressed the many complicated issues that still need resolution before drone users will be able to adequately protect themselves from loss. The paper outlined the significant safety benefits and efficiency maximization that drones can provide for industries from agriculture to insurance to filmmaking.

NAMIC followed up with another white paper in 2017, “Unmanned Aircraft: Defining Private Airspace,”<sup>2</sup> detailing how regulatory developments with respect to drones and private property airspace resulted in fundamental questions being raised that would impact drone use and insurance coverage. These questions regarding private airspace have resulted in litigation, as Congress, legislatures, and regulatory agencies have yet to establish clear rules on privacy that are necessary for the continued proliferation of drones.

This third white paper in the continuing series provides a snapshot of the way insurance companies use drones to provide insurance services. This overview also aims to give insurers an understanding of the developments that provide opportunities for, and obstacles to, drone use. The paper concludes with a review of the important advocacy efforts that have been undertaken to expand those opportunities and overcome the obstacles.



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<sup>1</sup> [https://www.namic.org/pdf/15memberadvisory/150226\\_drones.pdf](https://www.namic.org/pdf/15memberadvisory/150226_drones.pdf)

<sup>2</sup> [https://www.namic.org/pdf/drones/1703\\_privateairspace.pdf](https://www.namic.org/pdf/drones/1703_privateairspace.pdf)

## THE CONTINUING PROLIFERATION OF DRONES

The Federal Aviation Administration Aerospace Forecast 2018 - 2038<sup>3</sup> reports that drones have been experiencing robust growth in the United States and they hold enormous potential for hobby and commercial applications. More than 873,000 hobby and model drones were registered with the FAA as of Dec. 31, 2017, and the FAA projects there are approximately 1.1 million hobby drones today, representing a compound annual growth rate around 40 percent.

These hobby drones are widely distributed throughout the country, with denser ownership correlating with the high population centers. Given hobby drones' falling equipment prices, improved technology, and increased ease of control, the FAA Aerospace Forecast 2018-2038 states that the model fleet will likely more than double in size over the next five years to more than 2.4 million drones.<sup>4</sup>

With respect to drones operated for commercial purposes, between the time the online FAA registration system for these drones went into effect on April 1, 2016, and the end of 2017, more than 110,000 commercial operators had registered their equipment. For each week in 2018 more than 1,000 aircraft have been registered with the FAA<sup>5</sup>. The registered commercial drones Unmanned Aerial Systems are also unevenly distributed throughout the country, with denser activity correlating closely with the economic or commercial activities of the country.

According to the FAA Aerospace Forecast 2018-2038, by 2022 the commercial drone fleet will likely be four times larger than the present 110,000, although the anticipated growth rate of the sector will slow over time. The FAA reports that commercial drones are primarily used for real estate photography (48 percent), industrial and utility inspection (28 percent), agricultural applications (17 percent), and insurance (4 percent).<sup>6</sup>

The U.S. is not the only country experiencing rapid drone proliferation. Teal Group's 2018 World Civil UAS Market Profile and Forecast<sup>7</sup> projects that "non-military drone production will total \$88.3 billion in the next decade, soaring from \$4.4 billion worldwide in 2018 to \$13.1 billion in 2027, a 12.9 percent compound annual growth rate." Globally, it predicts that commercial drone use will surpass the consumer drone market in 2024, becoming the largest segment of the civil market; forecast to grow eightfold over the decade to reach \$7.3 billion in 2027.



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<sup>3</sup> [https://www.faa.gov/data\\_research/aviation/aerospace\\_forecasts/media/FY2018-38\\_FAA\\_Aerospace\\_Forecast.pdf](https://www.faa.gov/data_research/aviation/aerospace_forecasts/media/FY2018-38_FAA_Aerospace_Forecast.pdf)

<sup>4</sup> Ibid.

<sup>5</sup> [https://federaldroneregistration.com/?gclid=EAlalQobChMI6PLxMiz3glVw7fACh2wYAi1EAAAYASAAEgJZUvD\\_BwE](https://federaldroneregistration.com/?gclid=EAlalQobChMI6PLxMiz3glVw7fACh2wYAi1EAAAYASAAEgJZUvD_BwE)

<sup>6</sup> [https://www.faa.gov/data\\_research/aviation/aerospace\\_forecasts/media/FY2018-38\\_FAA\\_Aerospace\\_Forecast.pdf](https://www.faa.gov/data_research/aviation/aerospace_forecasts/media/FY2018-38_FAA_Aerospace_Forecast.pdf)

<sup>7</sup> <http://www.tealgroup.com/index.php/pages/press-releases/54-teal-group-predicts-worldwide-civil-drone-production-will-soar-over-the-next-decade>

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## INSURERS USING DRONES

The National Association of Insurance Commissioners<sup>8</sup> has concluded that the increasing commercial use of drones and their seemingly broad application across many operational fields have compelled many insurance companies to contemplate how and when they can and should be used. The NAIC sees the use of drones as very beneficial for the insurance industry, particularly following a natural disaster, when drones could be employed to reach remote areas inaccessible by claims adjusters.

For insurers large and small, drones can play a part at all the stages of the insurance lifecycle – even the smallest home insurance companies have seen the benefits of using drones.<sup>9</sup> Detailed images, roof angles, and other complex measurements of a property can be obtained prior to pricing and providing coverage. Drone technology can also be used to propose preventive maintenance and in assessing damage after an event. Claims can be inspected by an operator on the ground, and required data can be quickly obtained, recorded, and transmitted for analysis. For a single county property/casualty insurance company, it may be more efficient to have a third-party drone operator acquire images of claims rather than sending an employed adjuster back and forth to the furthest reaches of the county. The images can be transferred to the home office electronically, and the claim can be settled based on those images in short order. Smaller offices with limited personnel can use independent drone operators to save time and reduce expenses. Turnaround time on claims can be reduced by days or even weeks, which can be critical when engaging contractors for repair work.

- 1) **Providers of Drones and Drone Services for the Insurance Market:** HUVRData, Airware, Kespry, Eagle UAV Services, Ascending Technologies GmbH, Aeryon Labs, Arch Aerial, AeroVironment, Cyberhawk Innovations, Dajiang Innovation Technology (DJI), GoPro, Marcus UAV, Delta Drone, 3D Robotics, Draganfly Innovations and DroneDeploy
- 2) **Type:** Energy and Propulsion System, Data Collecting and Processing System, Steering and Positioning System, Automation System, Communications and Relays System, Cyber Security System
- 3) **Applications:** Claims Processing, Risk Assessments, Property Appraisal<sup>10</sup>

Consider rooftops – roof damage is often the result of severe weather, and the failure to promptly repair the damage can lead to far more damage from future weather events. But inspecting home rooftops can be a very dangerous activity requiring a person to climb onto a damaged structure, high off the ground. A common residential roof inspection by ladder can require upward of an hour, but multiple-story or steep roofs may require specialists, extra equipment, and much more time. Insurers using drones can get the necessary images and data in 20 minutes or less, without an adjuster risking personal safety to visually inspect the damage. The same drone may then transmit the images to the insurance company data center, where the damage can be assessed and the claim process begun.

According to Insurance Innovation Reporter<sup>11</sup>, property claims investigation costs the industry an average of about 11 percent of premium – automated inspection can reduce that expense substantially. Automated property inspection cycle times can average two to three days as compared to 10 to 15 days using traditional methods, lowering costs and increasing customer satisfaction. For underwriting and inspections, drone technology companies claim 99+ percent improvements in dimensional accuracy over traditional methods<sup>12</sup>.

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<sup>8</sup> [https://www.naic.org/cipr\\_topics/topic\\_drones.htm](https://www.naic.org/cipr_topics/topic_drones.htm)

<sup>9</sup> <https://www.usatoday.com/story/money/personalfinance/2017/06/08/meet-your-new-insurance-claims-inspector-drone/102560614/>

<sup>10</sup> Report can be found here: <https://www.reuters.com/brandfeatures/venture-capital/article?id=50751>

<sup>11</sup> <http://iireporter.com/property-insurance-technology-drone-use-comes-of-age/>

<sup>12</sup> <http://iireporter.com/property-insurance-technology-drone-use-comes-of-age/>

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An insurance company that employs a third-party drone operator generally retains much of the same liability for the actions and omissions of that third party. Risk managers have advised that insurers that employ third-party drone operators obtain detailed information from the operator prior to use, including:

- Gathering information regarding the type of drone that will be used and its capabilities, the name and experience of the remote pilot in command, and the intended use, location, and date(s) of use, as well as all participants in the drone operations;
- Assessing whether the drone operations will pose a hazard to persons/property/safety;
- Making sure that the drone is properly registered and owner identification is affixed to the drone;
- Having the third-party UAS operator certify that they are complying with federal, state, and local regulations, as well as any policies/procedures put in place by you or your business;
- Making sure that the third-party drone operator has proper and adequate insurance coverage and that they provide proof of insurance;
- Having indemnification agreements to protect your interests and release of liability;
- Verifying how any data or images will be collected and what policies or procedures are in place regarding what will be done with that data, as well as data retention parameters; and,
- Ensuring there are reporting procedures for any accidents or incidents and that there is a contingency plan for emergencies.<sup>13</sup>

A 2018 report by Novarica concluded that insurers big and small are adopting drone technology rapidly across insurance life cycles. It reported that 16 percent of property/casualty carriers plan to or are actively piloting drone initiatives, 15 percent have already launched one, and 43 percent intend to in the near future.<sup>14</sup>

But drones are neither a panacea nor appropriate for all insurers or all claims. Drone image and damage identification technology can often be useful by itself or to supplant staff field adjusters, but drones are not a solution for all property claims. The adjuster providing field experience and on-site follow-up can exceed the capabilities of drones in complex and expensive claims. Many insurers also maintain that insurance company staff visiting the property and the homeowner provide greater and deeper customer satisfaction and retention. At a time when insurers are looking to increase policyholder touchpoints, a mere drone flyover can reduce costs in the short term but may do less for the relationship between the insurer and the policyholder.

In determining whether, how, and where to develop and adopt drone operations, property/casualty insurance companies should consider the impact on their existing business as well as how their business and drone operations will grow going forward. McKinsey has proposed five key factors that insurers can use to understand and take advantage of that growth.

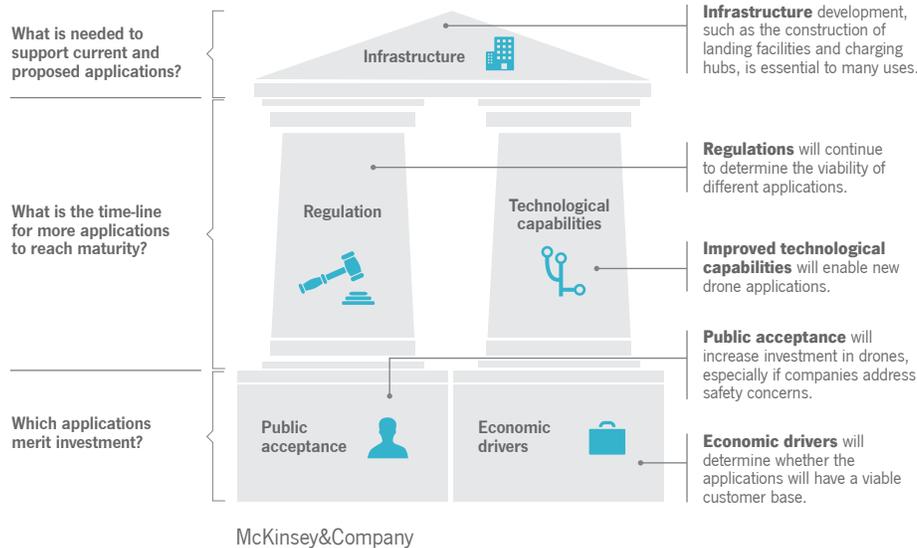
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<sup>13</sup> [https://www.blankrome.com/sites/default/files/2018-02/rail\\_-\\_solomon.pdf](https://www.blankrome.com/sites/default/files/2018-02/rail_-_solomon.pdf)

<sup>14</sup> <https://novarica.com/insurers-big-and-small-adopting-drone-tech-rapidly-across-insurance-life-cycle/>

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<sup>15</sup> Five factors will influence UAS growth



## DEVELOPMENTS FOR DRONE USE

Property/casualty insurance companies have unique business or operational reasons that may or may not lead to considering adoption or expansion of the use of drones. There are, however, more general developments in technology, regulation, and legislation, as well as public acceptance that are common to all such companies.

### TECHNOLOGY DEVELOPMENTS

According to Air Drone Craze, an Amazon Services LLC affiliate, current drone technology offers commercial suitability, safety and regulatory standards based design, platform and payload adaptability, automated safety modes, intelligent piloting models and full autonomy, and airspace awareness. The next generation drones will add fully compliant safety and regulatory standards-based design, platform & payload interchangeability, enhanced intelligent piloting models and full autonomy, full airspace awareness, and auto action (takeoff, landing, mission execution).<sup>16</sup>

What this means is that the next generation of “smart drones will have more efficient motors, better on-board processors and software, more accurate sensors, and built-in compliance technology for safe, effective flight control that will provide new opportunities in transportation and logistics.”<sup>17</sup> These drones will have the self-monitoring capabilities critical for

<sup>15</sup> <https://www.mckinsey.com/industries/capital-projects-and-infrastructure/our-insights/commercial-drones-are-here-the-future-of-unmanned-aerial-systems>

<sup>16</sup> <https://airdronecraze.com/drone-tech/>

<sup>17</sup> <https://airdronecraze.com/drone-tech/>

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expanded commercial use. In the future, they will be designed to access aerial traffic management systems with constant communication, navigation, and surveillance, directing drones and warning them of congestion or severe weather. Sensors will automatically control pre-programmed flight missions, and advanced artificial intelligence and algorithms could enable more and better data capture.

3D imaging and high-resolution cameras with video capabilities will allow insurers to access highly detailed data for analysis and use by a variety of applications to determine more effectively specifications of structures and damage to those structures. One such application could be combating fraud that, according to the Insurance Information Institute, compromises about 10 percent of property/casualty insurance losses and loss adjustment expenses annually, or \$32 billion annually; 57 percent of insurers predict an increase in this type of fraud by policyholders in the future. Companies that use drones to capture more and better images of insured properties before loss events can protect themselves from such fraudulent claims. Insurers typically get a large volume of claims for damages following a large-scale loss event and having comprehensive data on existing conditions before the event can help identify fraud – and, of course, provide faster resolution to valid claims.

## REGULATORY DEVELOPMENTS

As noted, property/casualty insurance companies are increasingly recognizing the great value of using drones post-disaster to help policyholders. These efforts have been hampered by temporary flight restrictions, the FAA-imposed limitations in a defined area of airspace because of a temporary hazardous condition, such as after a natural catastrophe. In areas where TFRs are in place, drone flights are prohibited without specific FAA authorization, and flying a drone without authorization in or near the disaster area may violate federal, state, or local laws and ordinances. Drone pilots prior to 2018 had to apply for an exemption from the TFR from the FAA, which could take up to 90 days. Insurers were impeded in deploying drones after hurricanes, and by the time air restrictions were lifted roofs were already tarped so drones could not assess the damage. In most cases, insurers then had to put a person on each damaged roof to perform a dangerous physical assessment.

To address this issue, in 2018 the FAA instituted the Low Altitude Authorization and Notification Capability program. LAANC was developed to provide registered drone operators with an automated and efficient solution to receive authorization to fly in airspace under a TFR. LAANC provides near-real-time processing of airspace authorizations including automatic approval of requests that are below approved altitudes in controlled airspace. This program will enable more insurers to safely use drones to help policyholders mitigate and recover from disaster damage.

Perhaps the largest remaining impediments to the development of commercial drone use by insurers are the existing FAA rules that prohibit commercial drone flights over people and beyond visual line of sight, known as BVLOS. When talking about flights over people, the biggest concerns are more about privacy and security. The FAA has promised rules for both drone operations over people and BVLOS for more than two years, but nothing has yet been published.

Drone operators can apply to the FAA to get special waivers from these rules, but they have not been easy to get. To conduct commercial BVLOS operations or to operate over people, businesses must be granted a specific waiver from Part 107 of the Federal Aviation Regulations from the FAA or work with a provider that already has a waiver. To obtain the waiver, operators must prove to the FAA that their drone operations can be conducted safely without endangering other aircraft, people, and property on the ground or in the air. It has been reported that to date, more than 1,200 BVLOS waiver applications have been submitted to the FAA by commercial drone operators with 99 percent failing to be approved.<sup>18</sup>

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<sup>18</sup> [https://www.precisionhawk.com/beyond-visual-line-of-sight-bvlos-drone-operations/?utm\\_campaign=BVLOS%20Deployment&utm\\_source=PH.com%20Blog](https://www.precisionhawk.com/beyond-visual-line-of-sight-bvlos-drone-operations/?utm_campaign=BVLOS%20Deployment&utm_source=PH.com%20Blog)

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While insurers and other commercial drone operators pursue these elusive waivers or simply wait for the FAA to enact the long-awaited rules, the FAA has instituted the UAS Integration Pilot Program “to foster innovation and advance the safe integration of drones into the national airspace system.”<sup>19</sup> Overseen by the U.S. Department of Transportation and administered by the FAA, the IPP is a series of 10 projects chosen to “explore how federal and state agencies, local governments, and companies can work together to expand and accelerate” the applications for drones, maximizing their potential for economic growth and public good while responding to the concerns that accompany the new technology.

In the 10 IPP test programs, one insurance company, State Farm, has been chosen to participate in a program with the Commonwealth of Virginia focusing on finding innovative, practical solutions for drones in package delivery, infrastructure inspection, and emergency management. The company has said it plans to use drones to assess damage during the claims process after a natural disaster.<sup>20</sup> From the IPP standpoint, there are a wide range of users – in the program and throughout the drone industry – that have different objectives and needs.

State Farm’s collaboration with the IPP may have also helped facilitate the granting of one of the elusive waivers described above. To assess damage in communities impacted by Hurricane Florence, State Farm was granted an FAA waiver for drone operations that was the first of its kind for an insurance company. The FAA waiver combined permissions for two types of operations that are typically tightly restricted: operations over people and flights beyond the operator’s visual line of sight. These provisions dramatically enhanced the insurance company’s ability to evaluate hurricane damage and allocate resources. The insurer’s successful application for this unprecedented waiver is a testament to the IPP’s success in facilitating rapid, research-based advances in drone operations to serve communities’ needs.

Waivers such as these are few and far between, and regulations dealing with BVLOS and flights over people are awaited while the IPP plows through years of tests and studies. However, there is another regulatory drone problem that complicates the decision-making calculus of insurers looking to use drones. As acting FAA administrator Daniel Elwell noted, drone flights involve privacy, but the FAA has no statutory authority to create or enforce any privacy-related regulations. In fact, the FAA recently reiterated<sup>21</sup> that laws related to land use, zoning, and privacy are not generally subject to federal regulation.

However, the FAA has concurrently taken the position that it regulates airspace from the ground up and that cities and municipalities – and by implication, private landowners – are not permitted to have their own rules or regulations governing the operation of aircraft at any altitude. This position was reiterated<sup>22</sup> in opposition to a proposed model law by the Uniform Law Commission attempting to address the rejection by the FAA of the traditional notion of private airspace by proposing to apply traditional trespass laws to lower-level drone flights over private property.

This lack of clarity regarding private airspace has led to efforts to fill the void of privacy regulation when it comes to drones. State governments recognize the FAA’s airspace authority but believe “it is imperative to preserve the authority of state governments to issue reasonable restrictions on the time, manner and place of drone operations as they relate to states’ traditional police powers.”<sup>23</sup> In 2017, 338 bills regarding drones were considered in state legislatures across the country, according to the Association for Unmanned Vehicle Systems International. Thirty-three of those bills in 17 states dealt with privacy concerns related to drone use.

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<sup>19</sup> <https://maap.ictas.vt.edu/uasipp/ipphome.html>

<sup>20</sup> <https://uavcoach.com/state-farm-first-u-s-insurer-to-get-faa-drone-exemption/>

<sup>21</sup> [https://www.faa.gov/news/press\\_releases/news\\_story.cfm?newsId=22938](https://www.faa.gov/news/press_releases/news_story.cfm?newsId=22938)

<sup>22</sup> [http://www.uniformlaws.org/shared/docs/drones,%20tort%20law%20relating%20to%202018AM\\_FAA%20Press%20Release\\_2018jul20.pdf](http://www.uniformlaws.org/shared/docs/drones,%20tort%20law%20relating%20to%202018AM_FAA%20Press%20Release_2018jul20.pdf)

<sup>23</sup> <https://about.bgov.com/blog/mind-gap-drone-privacy-falling-regulatory-cracks/>

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According to a 2017 report<sup>24</sup> by the Center for the Study of the Drone at Bard College, 133 localities in 31 states have enacted drone rules in recent years. The most common local restrictions include prohibitions against flying drones over public property and private property without the property owner's consent.

Currently, there is a regulatory patchwork that is vast, dangerous, and unclear. The FAA has neither the legal authority nor the resources to address drone privacy issues, and yet with its claim of jurisdiction from the ground up, it arguably maintains that no one else has the authority to do so, either. States and localities continue to enact drone regulations over the objections of the FAA. There have been and will be allegations that drones with cameras have violated the privacy rights of persons within the vicinity of drone operations. The allegations are difficult to authoritatively disprove and carry with them potentially significant public relations damage for insurers.

These significant legal and reputational risks present real dangers to insurers using drones and must be resolved before the expansion of commercial drone operations for insurers. Creating practical standards across the country represents a tremendous challenge but is one that must be solved to truly scale up insurer business models involving drones.

## LEGISLATIVE DEVELOPMENTS

In October 2018, a bill reauthorizing the Federal Aviation Administration and numerous safety infrastructure programs for five years passed the U.S. House and Senate and was signed by the president.

The FAA reauthorization<sup>25</sup> legislation included important provisions related to drone privacy. The bill stated that the policy of the United States is that drone operations must respect and protect personal privacy. It directed the Government Accountability Office to conduct a review of existing federal, state, or relevant local laws that address an individual's personal privacy and identify any deficiencies in privacy protections. It further ordered the FAA's IPP to identify the most effective models of balancing local and national interests in drone integration, including limiting operations over private property, based on land use considerations.

There are three areas of focus within the bill of particular importance to property/casualty insurers.

### 1. WHO REGULATES DRONES?

Section 351 as well as other provisions of the legislation address the technical, regulatory, and policy challenges of oversight and cooperation between the federal government and applicable state, local, or tribal jurisdiction. Section 358 requires the comptroller general of the United States to conduct a study on the appropriate roles of federal, state, local, and tribal governments in regulating low-altitude drone operations and identify specific issues and concerns that may limit the availability of civil or criminal legal remedies regarding inappropriate operation of UAS in the national airspace system.

As noted earlier, the FAA has maintained that it has sole authority over the airspace, a concept known as "preemption," while state and local governments have continued to propose and pass laws that limit the flight of drones and regulate local airspace. This law tossed the question to the GAO to study and report back to Congress 180 days after the date of enactment.

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<sup>24</sup> <http://dronecenter.bard.edu/files/2017/03/CSD-Local-and-State-Drone-Laws-1.pdf>

<sup>25</sup> <https://www.congress.gov/bill/115th-congress/house-bill/4/text>

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## 2. DRONE USER PRIVACY POLICIES

The law includes another provision that is very important to insurance drone users. The provision provides that commercial drone flights – other than for purposes protected by the First Amendment – “*should*” have a written privacy policy consistent with the U.S. Constitution and federal, state, and local laws and violations of that policy shall be an unfair and deceptive practice enforceable by the Federal Trade Commission.

The use of “*should*” is in italics because the provision that proposes the drone privacy policies in the bill – Section 378 – is titled and specified as a “sense of Congress” rather than a statutory provision requiring such policies. Expressing the “sense of” the Senate, House, or Congress merely expresses the opinion of a majority of the chamber’s members and generally is not regarded as creating law. Although regularly used by Congress in non-binding resolutions, a “sense of Congress” is not normally included in typical legislation; in this bill, it is used more than a dozen times. Federal government agencies may note “sense of Congress” provisions as indications that Congress might be considering passing formal laws that could impact the agency operations, but they do not give explicit statutory authority for the agency to promulgate or enforce rules.

Under these provisions, insurance companies would not be required by this law to “have a written privacy policy consistent with Section 357 that is appropriate to the nature and scope of the activities,” but if the insurance company does have a drone privacy policy, any violation of that privacy policy could be an unfair and deceptive practice in violation of section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)).

## 3. HOBBY DRONES GET FAA RULES

The law revised the broad exemption for hobby drone operators and applied to them many of the conditions and limitations that apply now to commercial drone operators. Hobby drone operators would be required to take and pass an aeronautical knowledge and safety test, as well as fly under 400 feet and within visual lines of sight. Non-compliance with these new requirements by hobby drone operators could directly impact any property or casualty claims under homeowner’s or other insurance coverage. The question of how the FAA will enforce the new requirements for the estimated 878,000 hobbyists, added to the 122,000 commercial, public, and other drones, makes a clear understanding of the jurisdictional roles and responsibilities even more important.

## PUBLIC OPINION DEVELOPMENTS

A 2017 Pew poll<sup>26</sup> found that when it comes to what rules should apply to drone use, more than half the public (54 percent) surveyed think drones should not be allowed to fly near people’s homes. Just 11 percent think this should be allowed, while 34 percent think it is acceptable in certain circumstances. A 2016 study by the United States Postal Service concluded that Americans do not yet trust drone technology. As an example of this distrust, when the Los Angeles Police Department proposed limited use of drones, there was substantial opposition.<sup>27</sup> Insurers using drones have experienced opposition and concern from neighbors of the insured property.<sup>28</sup> And the secretary of the Homeland Security Department penned an op-ed that detailed how drones can threaten critical infrastructure or be used to attack crowds and public places.<sup>29</sup>

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<sup>26</sup> <http://www.pewresearch.org/fact-tank/2017/12/19/8-of-americans-say-they-own-a-drone-while-more-than-half-have-seen-one-in-operation/>

<sup>27</sup> <http://www.govtech.com/public-safety/Public-Cites-Lack-of-Trust-as-Prime-Concern-with-LAPDs-Use-of-Drones.html>

<sup>28</sup> <http://www.pewresearch.org/fact-tank/2017/12/19/8-of-americans-say-they-own-a-drone-while-more-than-half-have-seen-one-in-operation/>

<sup>29</sup> <http://www.pewresearch.org/fact-tank/2017/12/19/8-of-americans-say-they-own-a-drone-while-more-than-half-have-seen-one-in-operation/>

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Public opposition can impede or even prevent insurers using drones in both limited and widespread situations. Given the regulatory gaps listed below, as well as the abrogation of any governmental responsibility to address the definition of privacy rights related to drone operations, local municipalities can and have enacted local rules that countermand or supersede FAA rules. Even if permissible under law and regulation, insurer drone use could – particularly in disaster situations – cause fear and negative public relations issues for even well-intentioned insurers. In general, while the American public may grow more comfortable with commercial drone use, insurers must remain concerned about the practical and public relations fallout that drone use could potentially create.

## LEGAL AND REGULATORY ADVOCACY FOR EXPANSION OF INSURER DRONE USE

The ability of insurers to use drones effectively and profitably is directly determined by what drone uses regulatory authorities allow and preclude. The critical issues to develop insurer drone operations include promulgating regulations for operating drones over people and beyond visual line of sight; enabling insurers to provide more and better drone operations post-disaster; and obtaining clear guidance on the critical privacy and property issues involved with drone operations. How these and other regulatory issues are addressed with respect to drone operations will directly impact how property/casualty insurance companies can provide insurance services with drones.

In 2016, NAMIC worked closely with Rep. Rob Woodall, R-Ga., a member of the House Transportation and Infrastructure Subcommittee on Aviation, to successfully insert language in a 2016 bill to reauthorize the FAA that required the FAA to allow civil operators, such as property/casualty insurance companies, to use drones in the wake of disasters.

In 2017, NAMIC worked with Sens. Diane Feinstein, D-Calif., Mike Lee, R-Utah, Richard Blumenthal, D-Conn., and Tom Cotton, R-Ark., on the 2017 Drone Federalism Act and with Reps. Jason Lewis, R-Minn., Julia Brownley, D-Calif., Todd Rokita, R-Ind., and John Garamendi, D-Calif., on H.R. 2930, the Drone Innovation Act, both of which establish a threshold of 200 feet for the regulation of drone operations by the FAA. The association also worked in 2017 with House members on language for the FAA appropriations bill that contained a provision requiring the federal government to examine losses of privacy caused by drones. The bill requires the Department of Transportation to carry out a review to identify any potential reduction of privacy specifically caused by the integration of drones into the national airspace system.

This review will provide the opportunity to further examine the potential issues created by denying the existence of private airspace, issues that NAMIC has been suggesting need to be resolved. In carrying out the review, the legislation requires the DOT to consult with the National Telecommunications and Information Administration of the Department of Commerce on ongoing efforts in response to a presidential directive to promote economic competitiveness while safeguarding privacy, civil rights, and civil liberties in the domestic use of drones. Additionally, the legislation calls for numerous studies and research on varied topics including mid-air collisions between manned and unmanned aircraft, beyond line of sight, probabilistic assessment of risks, and metrics for exemptions.

The past year alone has seen NAMIC furthering the drone discussion, with advocates and more than 225 representatives from NAMIC member companies meeting with more than 400 members of Congress and their staffs to educate them on the value of insurers using drones to help policyholders and the need to reduce unnecessary legal and regulatory impediments to doing so. Working with the various congressional committees, NAMIC has provided formal and informal testimony and also hosted a briefing to educate members of Congress and their staffs about the insurance industry's use of drones in the wake of catastrophes.

# NAMIC ISSUE ANALYSIS

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Looking ahead, NAMIC will continue to work with members of Congress, in particular members of the House Transportation and Infrastructure and Senate Commerce committees, to ensure the property/casualty insurance industry can effectively use drones over people, beyond visual line of sight, and in post-disaster settings, all the while creating clarity surrounding rules related to privacy and personal property. Given that the insurance industry is expected to be one of the largest users of drones, it is essential the technology can be used in a way that positively impacts millions of policyholders across the nation.

State legislatures across the country are expected to continue to consider and debate how drone use should be regulated and/or encouraged in their respective states. At the end of 2017, every state in the U.S. had at least one drone-related law covering a wide range of prohibitions relating to privacy, aerial trespass, photography, weaponization, and more. In addition to laws at the state level, a number of cities, towns, and other municipalities have enacted their own drone-related ordinances. NAMIC has advised on dozens of proposed state drone laws and regulations relating to privacy, insurance, and liability. NAMIC is also working with the Catastrophe Insurance Working Group of the National Association of Insurance Commissioners to help state insurance regulators work with their local emergency first-responder community to stress the importance of allowing claim adjusters who are authorized drone users to be on the scene post-disaster.

## CONCLUSION

There is no question that insurance companies will find new and innovative uses in serving policyholders from developments in drones and drone-related technology. As entities with a deep understanding and appreciation of risk, insurers provide these services with the greatest of caution and in the best interests of policyholder needs. For these developments to be commercially viable for insurance companies, there must be a concurrent development of the regulatory clarity and protections that are predicates for the public to accept more drone use. If people feel that drone regulations enable drone operations that are threatening or invade their private space, the ability to use and develop commercial drone operations will be seriously impeded. The existing regulatory gaps for drone use as described earlier cannot simply be ignored. The FAA has responded to many of the regulatory needs of drone development, but the agency has more to add in this area. Implementing practical and workable rules for commercial drone use that properly and fairly addresses privacy and related concerns will promote, rather than impede, that use.

NAMIC has worked and will continue to work with the FAA, Congress, the White House, and numerous state legislatures and agencies to expand the ability of member companies to use drones to provide important recovery services, while simultaneously working to ensure that the privacy and rights of all are protected.

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**NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES**

3601 Vincennes Road | Indianapolis, IN 46268 | 317.875.5250  
20 F Street, NW, Suite 510 | Washington, D.C. 20001 | 202.628.1558

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