

**SAMPLE FORM LETTER TO STATE INSURANCE REGULATORS**

**4/27/20**

Honorable Scott White  
Virginia State Corporation Commission  
Bureau of Insurance  
Tyler Building, 1300 East Main Street  
Richmond, Virginia 23219

Dear Commissioner White:

As the personal and economic toll of the COVID-19 pandemic continues to expand, insurance brokers continue to serve clients in an uncertain world, providing essential guidance as we navigate through the unprecedented challenges facing us. Insurance brokers play a unique role in assisting individuals and businesses plan for uncertainty and risk, and providing critical services when losses occur. Although the current crisis poses unique challenges, the broker community continues to work to protect clients and uphold our responsibility to facilitate and provide critical services to support them and the nation's economy.

Our ability to serve our clients and fulfill our obligations is affected significantly by the legal and regulatory framework in which we operate. Since the onset of the crisis, state insurance regulators have issued hundreds of bulletins and other guidance instructing brokers and other industry players with respect to their operations in connection with the pandemic. The issues addressed include cost-sharing for COVID-19 expenses under health insurance policies; mandating telehealth coverage; addressing out-of-network and balance billing disparities; providing flexibility in regulatory compliance; mandating premium forbearance; and imposing other regulatory requirements.

We welcome the bulletins and other notices and guidance from the Department and your desire to protect insureds, and the attempt to provide clarity in a time of uncertainty. Nevertheless, there are a number of areas where we believe action by the Department is important to (i) clarify the intent of current notices; (ii) anticipate potential compliance and coverage issues that will likely arise as the crisis continues; and (iii) provide additional regulatory flexibility:

1. **Premium Payment Forbearance – Agency Billing Arrangements:** To date, many states have issued notices recommending or mandating that insurers refrain from cancelling policies due to non-payment of premium for a period of time, usually 60 days (the “grace period”). Although we support the flexibility this provides policyholders, we have concerns about the impact of non-payment of premium in connection with policies subject to agency billing arrangements. These are arrangements by which the agency/brokerage provides financing assistance to clients. The concern is that, if a policy subject to an Agency Billing arrangement is terminated after the grace period, the producer will be held responsible for amounts owed for the period during which the policyholder had coverage but did not pay the

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premium (the grace period). As you can imagine, this would create huge financial problems for brokers.

We believe that the issue can be addressed by simply stating that the carrier bears the credit risk for amounts owed during the grace period if the amounts are not paid and, as a result, the policy is ultimately cancelled (after the grace period). This is in keeping with the intent of the Agency Billing arrangements. In light of those concerns, and in an effort to clarify that the intent of the premium forbearance notices is not to impose credit risk on brokers, we hope the Department will clarify its premium payment forbearance notices as follows: *Where states have mandated premium payment grace periods or insurers have voluntarily implemented such grace periods, insurers should assume the credit risk during such grace period, whether they are collecting the premium directly or indirectly through premium finance arrangements or agency bill arrangements.*

2. Premium Payment Forbearance – Eligibility: In many states, the premium grace periods recommended or mandated by the states generally appear to apply to all policyholders, regardless of their size and irrespective of whether they have experienced any adverse financial impact from the pandemic. As noted above, we fully support the public policy considerations underlying the grace periods to aid the most vulnerable policyholders – namely, those individuals and small businesses that can demonstrate COVID-19-related financial hardship. Other classes of policyholders should not, however, be provided the opportunity to refrain from paying premiums in a timely fashion when they are capable of doing so. Modifying grace period eligibility by adopting a more balanced approach would advance the public interest by better positioning insurers to focus their resources and energies on maximizing benefits and loss payments to the individual consumers and small businesses most in need of them. Therefore, we respectfully request that the Department clarify that: (1) any moratorium on payment of insurance premiums applies only to individual consumers or small businesses; and (2) any such policyholders attest to financial hardship as a result of the COVID-19 pandemic.
3. Vacancy Clauses: Most property insurance policies contain provisions to exclude or limit coverage once a building becomes vacant or unoccupied. Given the impact of the current crisis on businesses large and small – the alternative work arrangements that are already in place in most of the country, and the potential for increasing numbers of businesses to cease operations altogether – there is a strong likelihood that many properties could be deemed “vacant or unoccupied” in the near future, thus triggering exclusion or limiting language. We urge you to work with carriers and producers to avoid loss of coverage due to temporary, if lengthy, time periods during which properties are unoccupied due to the pandemic.
4. Delivery of Policies, Notices and Tax or Stamping Payment: During the COVID-19 pandemic, insurers, agents, brokers, and other industry participants should be permitted to utilize electronic delivery of notices and documentation to insureds

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whenever possible and utilize electronic payment methods for any taxes, stamping fees or other state payments.

5. Wet Signature Requirements: Electronic signatures should be acceptable for all business during a grace period.
6. Notarization Requirements: To the extent reasonable, notarization requirements should be suspended.
7. Maintain the Integrity of the Contract: The Department should acknowledge that accommodations for insureds is not intended to change the terms of the issued policy or be considered a forgiveness of any premium.
8. Licensing Flexibility: The Department should allow flexibility for producer license renewals in terms of both timing of renewals and any state-specific requirements for in-person appearances and fingerprinting.
9. Supervision of Staff by Licensed Producer: Flexibility should be given with respect to in-person supervision of unlicensed staff who are conducting certain administrative functions that require licensed producer oversight. We encourage the Department to permit telephonic or other technology-enabled oversight given the need for social distancing and, in some jurisdictions, the legal impossibility for people to work in the same physical space.

Thank you very much for your consideration of our concerns.

Please do not hesitate to contact me with any questions. In addition, please feel free to contact John Fielding, General Counsel of The Council of Insurance Agents and Brokers at [john.fielding@ciab.com](mailto:john.fielding@ciab.com). FIRM NAME is a proud member of The Council of Insurance Agents and Brokers.

Sincerely,

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[SIGNATURE OF CEO/VP of RISK/COMPLIANCE]