



LEGAL COUNSEL

Working Group

June 9, 2020

EXECUTIVE SUMMARY

The Council of Insurance Agents & Brokers' Legal Counsel Working Group convened a virtual meeting to discuss federal and state actions undertaken in response to the novel coronavirus (COVID-19).

The Working Group was chaired by Working Group Chair Andy Impastato, Vice President, Insurance Counsel and Director of Industry Affairs for BXS Insurance, and was attended by over 60 of the insurance brokerage industry's top legal counsels. The virtual meeting was staffed by The Council's General Counsel John Fielding, Chief Legal Officer Scott Sinder, Senior Vice President of Government Affairs Joel Wood, Vice President of Government Affairs Joel Kopperud, and Director of Government Affairs Blaire Bartlett.

FEDERAL UPDATES

For the moment, COVID-19 developments have taken a backseat as the nation's capital (and the country as a whole) debates the path forward for reforms to the criminal justice system and policing.

Nonetheless, Congress will likely return to considering the next COVID-19 relief package in a matter of weeks. The primary proposal on the table continues to be House Speaker Nancy Pelosi's (D-CA) HEROES Act (i.e., "CARES 2.0"), which passed the House on May 15, 2020. The legislation, however, faces an uphill battle in the Senate, where all signs point to Senate Majority Leader Mitch McConnell (R-KY) putting forth his own competing package that provides state and local aid, bolsters the PPP, and offers liability relief or some sort of safe harbor for businesses that opt to reopen (or were deemed essential under state and local stay-at-home orders).

Beyond the next relief package, the Working Group also received updates from Wood, Kopperud, and Bartlett on several current and future federal issues, including:

- The challenges associated with building support for America's Recovery Fund, including cultivating sponsors in the House and Senate, drafting legislative text, and addressing competing interests on cost;
- The path forward for prospective pandemic relief (e.g., a Pandemic Risk Insurance Program (PRIA) floated by Representative Carolyn Maloney (D-NY)) that mirrors the framework of the Terrorism Risk Insurance Program or the alternative proposal being floated by insurers that would mimic the National Flood Insurance Program and place the program within the Federal Emergency Management Agency's purview); and
- The Council's work to stabilize the employer-sponsored market and secure COBRA subsidies.

As with all things, the timing surrounding these developments remains relatively uncertain.

STATE UPDATES

As states begin to reopen, state regulators appear to be slowing down in attempting to address issues related to COVID-19 and state legislatures are beginning to adjourn. For regular and recurring updates, please continue to use The Council's [COVID-19 Resource Center](#)—including the legislative trackers on business interruption coverage and workers' compensation, a legislative tracker on enacted civil liability protections, the state premium forbearance tracker, the state insurance regulatory tracker, and the broader regulatory tracker—as a source of the recent and pending developments at the state level.

Beyond these issues, the Working Group also discussed:

- State reopening orders;
- The Council's outreach to regulators on other regulatory issues (e.g., premium grace periods, agency billing, eligibility issues, etc.) and the states' responses; and
- Extensions or expirations of certain administrative insurance provisions, premium grace periods, etc.

In particular, Fielding noted that most guidance put forth by states either requiring or requesting that insurers offer some form of premium relief is now expiring. With expirations underway or around the corner in every state, please reach out to The Council if issues arise (e.g., carriers seeking to impose obligations on brokers).

MEMBER INFORMATION EXCHANGE/OTHER ISSUES

Members also spent time discussing other issues, including:

- Carriers' responses to the expiring grace periods;
- How best to interpret the varying state reopening orders, particularly with respect to their suggestion that employers encourage employees to continue working remotely;
- How to protect the businesses as they start to reopen (e.g., waivers, accommodations, etc.);
- Potential conflicts arising with landlords; and
- Potential defense costs and other economic impacts associated with COVID-19-related general liability claims.

SEE YOU SOON!

We anticipate the next call—which will be John Fielding's last with The Council ☺—will take place on **June 23, 2020** at 3:00 PM EST. If you have any questions in the meantime, please email John Fielding at john.fielding@ciab.com.