

WSIA Policy Positions on State Regulatory and Federal Legislative Responses to the Impacts of the COVID-19 Pandemic

*As of June 15, 2020**

After nearly three months of the COVID-19 virus disrupting our nation, the unprecedented impact of the pandemic continues to unfold with many unknowns to our nation and the insurance industry. As the daily lives and operations of our insureds continue to be significantly changed, simultaneously experiencing professional and personal impacts of social distancing policies and reduced access to physical operations, we are proud that the insurance industry has continued to serve our insureds and provide stability in uncertain times. Since the onset of the pandemic, the Wholesale & Specialty Insurance Association (WSIA) has encouraged all industry participants to extend relief to insureds managing through COVID-19-related business and financial distress in order to protect our insureds/policyholders, help facilitate continuation of service among all industry participants, and uphold the industry's responsibility to provide critical services that support our nation's economy and infrastructure.

The effects of COVID-19 on insureds and the business operations of all industry stakeholders will continue to vary. Initially, state regulators issued bulletins and guidance with varying approaches, and while some presented challenges for the entire market, most provided guidance that was consistent with how the industry was voluntarily responding. As an association, we are proud of how our members have balanced all the above to best respond to their insureds and business partners throughout this global crisis and as we continue the process of economic recovery and reopening.

State Regulatory Responses

On June 1, many state bulletins and guidance began to expire or were revised to meet the needs of insureds and industry members during state reopening phases. As of June 15, consistent with current regulatory revisions and state reopening efforts, WSIA offers the following continuing perspective:

1. As we have since the onset of the pandemic, continue to conduct business operations in as standard a manner as possible with the same level of care, concern and exceptional service to policyholders and business partners for which our industry is known.
2. Continue to work with insureds and business partners who have or continue to manage through COVID-19-related business and financial disruption as you have and as you customarily do in the wake of a catastrophic event and in compliance with state regulatory requirements.
3. Where state requests or mandates for policyholder accommodations in the areas of premium payments, policy cancellation and nonrenewal, etc., continue beyond June 1, WSIA members should promote continued, effective and stable service to all insureds and business

partners. It is important that WSIA members ensure that these accommodations do not adversely impact their ability to continue to provide services to all existing policyholders, not only those with COVID-19 impacted claims.

4. Where state regulators recommend or request grace periods, or where a non-specified grace period was requested, we believe a grace period from the due date of policy premium through June 1, 2020, was appropriate. Now, with states allowing these requests and orders to expire, WSIA encourages members to conduct business operations in as standard a manner as possible under the circumstances and discourages state extensions of grace periods.

Policyholder Accommodations

The most common policyholder accommodations continuing in effect as of June 1 include:

- **Policy Cancellations and Nonrenewal** — Temporary suspensions of cancellations and nonrenewals of policies during a grace period and continued work with insureds to avoid cancellation for:
 - Failure to pay premiums on time;
 - Failure to respond in a timely manner to nonrenewal notices; and
 - Any other reasonable accommodations for circumstances other than those that constitute fraud and/or intentional misrepresentation by the insured.
- **Payment Accommodations** — Temporary payment accommodations, including:
 - Extended payment due dates or installment plans;
 - Waivers of late or reinstatement fees and penalties; and
 - Waivers of interest charges on late payments.

Such accommodations should now be considered only when necessitated by operational or financial hardship directly caused by the pandemic. Continued accommodations should not apply to policyholders and industry participants whose business operations or financial health are not significantly impaired by COVID-19, nor should the industry be required to waive any premium payment or otherwise change the existing terms, conditions, limitations and exclusions of insurance policies as issued.

Regulatory Relief Considerations

As industry participants continue to work with insureds and business partners experiencing hardships created by COVID-19, WSIA continues to ask that state insurance regulators to continue to extend certain accommodations to industry participants whose operations are also disrupted by social distancing policies and curtailed business operations. Relaxing certain regulatory requirements, in the following areas, has been beneficial to all parties.

- **Delivery of Policies, Notices and Tax or Stamping Payment** — During the COVID-19 pandemic, insurers, agents, brokers and other industry stakeholders, including managing general agents and underwriters, should be relieved from certified mail requirements and permitted to utilize electronic

delivery of notices and documentation to insureds whenever possible and utilize electronic payment methods for any taxes, stamping fees or other state payments.

- **Wet Signature Requirements** — Electronic signatures should be acceptable for all business during a grace period.
- **Notarization Requirements** — To the extent reasonable, notarization requirements should be suspended.
- **Maintain the Integrity of the Contract** — Regulators should acknowledge that accommodations for insureds are not intended to otherwise change the terms, conditions, limitations and exclusion of insurance policies as issued or be considered a forgiveness of any premium.
- **Allowing Accommodations** — Regulators should not view accommodations made to insureds incurring economic hardship during the COVID-19 public health emergency as violating insurance laws such as unfair discrimination or inducement prohibitions.

WSIA Position on Business Interruption Coverage

Bills are pending throughout the country that would require insurers to pay for coverage that was never sold and would have far-reaching, significant negative impacts to all consumers and businesses relying on the insurance market to protect them now and in the future. These bills attempt to change every insurance policy issued for loss of use and occupancy and business interruption so that each policy would effectively be rewritten to include coverage for business interruption during the declared state of emergency due to the COVID-19 pandemic. They would mandate such insurance policy interpretation regardless of the clear wording of the policy itself, providing a coverage never intended when the policy was underwritten and priced. WSIA submits testimony opposition all proposals and is tracking all anti-contractual insurance coverage legislation that has been introduced in a state or Congress.

WSIA applauds the March 25 statements of the National Association of Insurance Commissioner (NAIC) on [Congressional Action Relating to COVID-19](#) and the National Conference of State Insurance Legislators' (NCOIL) [letter to Congress](#).

WSIA Statement on Liability Immunity Related to COVID-19 Claims

WSIA supports temporary and targeted liability relief legislation related to the COVID-19 pandemic to safeguard businesses and the U.S. economy from unfair lawsuits that will impede our country's effective recovery from the COVID-19 pandemic. WSIA joined the U.S. Chamber of Commerce and over 250 entities with broad-based interests in support of the May 27 request to Congress for swift enactment of temporary liability protections for:

- businesses, nonprofit organizations, and educational institutions that work to follow applicable public health guidelines against COVID-19 exposure claims;
- healthcare workers and facilities providing critical COVID-19-related care and services; manufacturers, donors, distributors, and users of vaccines, therapeutics, medical devices, as well as

PPE and other supplies (such as hand sanitizer and cleaning supplies) that are critical to the COVID-19 response; and

- public companies targeted by unfair and opportunistic COVID-19-related securities lawsuits.

In addition to being temporary, WSIA believes these liability protections should be limited in scope and preserve recourse for those harmed by truly bad actors who engage in egregious misconduct.

WSIA supports the protection of workers and businesses as they begin reopening and recovering from the COVID-19 pandemic. We applaud efforts by states that would provide liability immunity or limit the expansion of risk of liability in ways detrimental to workers and businesses.

WSIA Participation in America's Recovery Fund Coalition

WSIA signed a [joint trades letter](#) in support of the establishment of a COVID-19 Business and Employee Continuity and Recovery Fund to provide additional federal assistance to businesses and workers. This concept gained further support from a broad spectrum of businesses and associations, which developed the America's Recovery Fund Coalition (AFRC), and on May 3, with over 100 signatures representing nearly 45% of the American workforce, we [asked Congress](#) to take action on the Fund. The Fund would be an additional tool to assist businesses in maintaining employees, maintain benefits for employees and meet expense obligations during this extraordinary time. We and our partner organizations believe that a proactive approach to assist the business community is an important part of the recovery plan for the economy, which the insurance industry also works to protect.

Our hope is that the disruption and financial hardships created by COVID-19 will be short-term in nature, and we are encouraged by continued enhancements to federal stimulus measures that provide economic relief to many businesses and insureds. We further support similar federal and state efforts to aid in this type of relief, help our economy recover and mitigate a larger financial crisis.

** This document was updated June 15, 2020, from the [original draft dated April 1, 2020](#).*