

SD.2888 and Other Proposed Legislation to Cover COVID-19 BI Claims

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As the legislative and regulatory landscape continues to shift day by day, MAIA and our national association, The Big "I," are working hard to ensure that independent agents are well represented. Many of you have reached out with questions about the highly publicized bills being filed in Massachusetts (SD.2888) and elsewhere, proposing coverage mandates on pandemic-related business interruption (BI) claims, despite

such coverage being excluded in most BI policies. Naturally, we have significant concerns regarding such legislation.

Recent statements from NAIC and NCOIL reflect our viewpoint, and a joint letter from the Big "I" and other national trade associations proposes a much fairer solution— a federal "Recovery Fund" to help businesses retain and rehire employees, maintain worker benefits, and meet operating expense obligations.

National Association of Insurance Commissioners (NAIC) Statement

Excerpt: "Business interruption policies were generally not designed or priced to provide coverage against communicable diseases, such as COVID-19 and therefore include exclusions for that

risk. Insurance works well and remains affordable when a relatively small number of claims are spread across a broader group, and therefore it is not typically well suited for a global pandemic where virtually every policyholder suffers significant losses at the same time for an extended period. While the U.S. insurance sector remains strong, if insurance companies are required to cover such claims, such an action would create substantial solvency risks for the sector, significantly undermine the ability of insurers to pay other types of claims, and potentially exacerbate the negative financial and economic impacts the country is currently experiencing."

READ FULL STATEMENT: [NAIC Statement on Congressional Action Relating to COVID-19](#)

National Council of Insurance Legislators (NCOIL) Letter to Congress

Excerpt: "We understand that professionals and businesses will be facing unprecedented, dire economic challenges; however, we cannot compound the damage to the broader economy by forcing insurers to pay claims for which they did not contract. To do so could destabilize these insurers and render them unable to pay claims for which they did accept the risk, and did rate & reserve. This could jeopardize the solvency of any number of insurers."

READ FULL LETTER: [NCOIL Letter to Congress Re: Business Interruption Insurance and Coronavirus](#)

Big "I" Proposes Federal "Recovery Fund"

As referenced in the NAIC and NCOIL statements, the IIABA (Big "I") and dozens of other trade associations are urging the Administration to create a federal facility to deliver financial assistance and relief to small businesses. In a joint letter to President Trump and other top federal leaders, the trade associations call for the creation of a Business and Employee Continuity and Recovery Fund, to be funded by the federal government:

Letter from Joint Trades to President and Senate/House Leaders

Excerpt: "The COVID-19 Business and Employee Continuity and Recovery Fund ("Recovery Fund") would be funded by the federal government and under the authority of a special federal administrator with the ability to enter into contracts with interested

businesses to administer the Recovery Fund and facilitate the distribution of federal funds and liquidity to impacted businesses and their employees. The requested relief would be designed to help businesses retain and rehire employees, maintain worker benefits, and meet operating expense obligations. Strong anti-abuse provisions, including audits and Special Inspector General oversight, would be included.

We urge the Administration and Congress to continue to think broadly and holistically to address the catastrophic emergency that has caused these unprecedented economic challenges...."

READ FULL LETTER: [Joint Trades COVID-19 Business and Employees Fund Letter to President and Senate/House Leaders](#)

MAIA supports the efforts of the Big "I" to address the unprecedented hardships faced by small businesses, while preserving the integrity and fundamentals of risk management.

Related Reading

- [Massachusetts Bill SD.2888, An Act Concerning Business Interruption Insurance](#)
- [Summary of the COVID-19 Business & Employee Continuity Recovery Fund supported by IIABA \(Big "I"\)](#)
- [Coronavirus: State, Federal Officials Eye Business Interruption Intervention](#), by Wes Bissett, Big "I" Government Affairs Senior Counsel, in *IA Magazine*, dated March 26, 2020