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**NCOIL Summer Meeting
CHANGED**
More Information
Available Soon



Rep. Matt Lehman, IN
President



Thomas B. Considine
NCOIL CEO



Asm. Ken Cooley, CA
Vice President

FROM THE PRESIDENT'S DESK IN REP. MATT LEHMAN, NCOIL PRESIDENT

I hope you are all staying safe and in good health. This is certainly not the column that I thought I would be writing at this point in my term as NCOIL President. I hope that this column will provide some insight and clarity on NCOIL's activities during these unprecedented times.

Meeting Updates:

The NCOIL Summer Meeting in Jersey City in July has been changed. Since we are no longer able to meet in Jersey City, the NCOIL officers and staff have been working diligently to come up with an alternative. We are working to make a final decision and plan to share this information with you in the next few weeks. I was really looking forward to having our Summer Meeting in Jersey City and enjoying the views from the banks of the lower Hudson River. Luckily, NCOIL staff was able to work with the hotel and we will now be having our 2022 Summer Meeting at the same hotel.

Additionally, the Fifth Annual NCOIL DC Fly-In and the CIP Planning Meeting have been changed from their original June dates. **The Fly-In will now be held on September 22nd – 23rd, followed by the CIP Planning Meeting on September 24th. A reception for the CIP Planning Meeting will be held on the evening of September 23rd with meetings beginning the following day.**

For those of you who cannot attend any in-person meeting we have in Washington, DC due to company travel restrictions or other reasons, we strongly encourage you to send someone from the DC metro area to represent your organization. Your participation in NCOIL discussions is very important to us in creating sound public policy.

COVID-19 and Business Interruption Coverage:

NCOIL has been playing a very active role in communicating our position on business interruption insurance coverage and COVID-19. If you're reading this column, you most likely have been following the actions Congress and several states have taken to introduce legislation that would retroactively enact business interruption coverage into existing policies despite an absence of the physical damage required in property policies and/or express exclusions for communicable diseases in those policies.

We at NCOIL have been in contact with legislators around the country, as well as Members of Congress and staff in Washington. In our communications to Congress and State Legislatures, we have stressed that an insurance policy is a contract between two parties. Virtually all such contracts that include business interruption coverage require physical damage as a precursor to coverage attaching. Additionally, the vast majority have an explicit exclusion for interruptions caused by communicable diseases. Accordingly, the rates for these policies were determined with this risk expressly exempted.



Asm. Kevin Cahill, NY
Treasurer



Rep. Joe Fischer, KY
Secretary



Sen. Jason Rapert, AR
Immediate Past President



Sen. Travis Holdman, IN
Immediate Past President

President's Desk Cont'd

If States or Congress were to add such coverage now, after the fact, it would force insurers to pay millions of claims for which they did not contract, did not rate and did not reserve. This would lead to a solvency crisis in the property insurance industry, which in turn would lead to compounded damage to the broader economy.

Further, NCOIL has stressed that retroactively forcing coverage into contractual agreements is not only inadvisable for policy and economic reasons, but very likely unconstitutional. We believe there is a way to accommodate all of our collective concerns for the businesses and professionals facing a near full stop on their income, as well as associations who are forced to cancel their revenue generating events with a national solution that has already proved effective.

We have reached out to President Trump and Congress to suggest a federal claims fund in the model of the 9/11 Victims Compensation Fund (VCF) for these claims that fall outside the four corners of their insurance contracts. While these letters also address the benefits of the Pandemic Risk Insurance Act (PRIA), it alone does not deal with the claims arising from the current crisis. Additionally, NCOIL's support for PRIA thus far has been tentative and conditional; it is important that the legislation be modified so that there is not unlimited liability for insurers.

You can view those letters by clicking the following links:

[NCOIL Letter to Congress Regarding COVID-19 and Business Interruption Insurance](#)

[NCOIL Letter to House Financial Services Committee Regarding COVID-19 and Business Interruption Insurance](#)

[NCOIL Letter to to Congresswoman Pramila Jayapal](#)

[NCOIL Letter to U.S. Senators](#)

[NCOIL Letter to President Trump](#)

[NCOIL Letter to Chairs Waters and Maloney](#)

[Additionally, please see below for more on NCOIL and PRIA.](#)

In the letters above we suggest a Congressional Act creating a COVID-19 Business Interruption & Cancellation Claims Fund (COVID Claims Fund). We also point out that while the VCF needed to establish a claims adjudication process, that would not be necessary here because the COVID Claims Fund could utilize the claims processing acumen of the insurance industry to validate the claims for payment.

For more information, please visit the NCOIL COVID-19 resource page [here](#).

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NCOIL APPLAUDS INTRODUCTION OF THE PANDEMIC RISK INSURANCE ACT

The National Council of Insurance Legislators announced today that it applauds the introduction of the Pandemic Risk Insurance Act of 2020 (PRIA), which was formally introduced on Friday, May 22nd. NCOIL President, IN Representative Matt Lehman stated, "While NCOIL is conceptually supportive of PRIA, we will need further discussion together on the details. Also, while PRIA would provide a backstop for losses after its passage, it is imperative that Congress continue focusing on those current, mounting uninsured losses that fall outside business interruption and event cancellation policies' protection."

PRIA, sponsored by Rep. Carolyn Maloney (D, NY), would provide for a transparent system of shared public and private compensation for business interruption losses resulting from a pandemic or outbreak of communicable disease. The new legislation is pulling from lessons learned during the business interruption the country saw around the 9/11 terrorist attacks.

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Future NCOIL Meetings:

Summer 2020
CHANGED
More Information
Available Soon

Annual 2020
December 9—12
Tampa, FL

Spring 2021
March 11—14
Washington, DC

Summer 2021
July 14—17
Boston, MA

Annual 2021
November 17—20
Scottsdale, AZ

Spring 2022
March 3—6
Las Vegas, NV

Summer 2022
July 13—16
Jersey City, NJ

Annual 2022
November 16—19
New Orleans, LA

President's Desk Cont'd

NCOIL and Rutgers Center for Risk and Responsibility Webinar:

On April 24th, NCOIL and the Rutgers Center for Risk and Responsibility at Rutgers Law School sponsored a webinar to discuss legislative responses to COVID-19 and business interruption insurance. Panelists included Jay Feinman and Adam Scales, Professors of Law at Rutgers Law School and Co-Directors of the Center for Risk and Responsibility; Commissioner Tom Considine, NCOIL CEO; Indiana Representative Matt Lehman, NCOIL President; New Jersey Assemblyman Lou Greenwald, NJ Assembly Majority Leader; and Sean Kevelighan, CEO at the Insurance Information Institute. Overall, there were 553 participants in the very timely discussion. The video recording can be viewed [here](#).

NCOIL Articles of Organization & Bylaws Revision Committee Interim Call:

Throughout the past several weeks NCOIL has been among the organizations across the world that has taken time to reflect on whether any changes to its normal method of conducting business should be altered to account for any future emergencies. Accordingly, Chair David Livingston (Sen. – AZ) and Vice-Chair Ellen Spiegel (Asw. – NV) will be hosting the interim conference call meeting on **Thursday, June 11th from 12:00 – 1:00 PM (EST)** to discuss proposed amendments to the NCOIL Articles of Organization & Bylaws.

You can register for the call and view the proposed amendments [here](#). Please direct any questions or comments to NCOIL General Counsel Will Melofchik at wmelofchik@ncoil.org. Dial-in information and a formal agenda will be circulated prior to the call.

NCOIL Workers' Compensation Insurance Committee Interim Call:

On May 29th, the NCOIL Workers' Compensation Insurance Committee convened for an interim conference call. Chair Bart Rowland (Rep. – KY) conducted the interim meeting to discuss the impact of COVID-19 on the workers' compensation marketplace, including the efforts several states have taken to expand access workers' compensation coverage for COVID-19 to include all workers labeled as "essential."

Consistent with NCOIL's longstanding policy, we heard views from multiple perspectives on the issue. Speakers included: Jeff Eddinger, Senior Division Executive for the National Council on Compensation Insurance (NCCI); Mitch Steiger, Legislative Advocate at the California Labor Federation (CLF); Richard Marcolus, Chair of the New Jersey Council of Safety & Health (COSH); Dr. Robert Hartwig, Clinical Associate Professor in the Finance Department and Director at the Center for Risk and Uncertainty Management at the Darla Moore School of Business University of South Carolina; and Erin Collins, Vice President of State Affairs for the National Association of Mutual Insurance Companies (NAMIC).

The interim conference call meeting was the highest attended conference call meeting NCOIL has held since 2016. There were over 100 participants which included 18 legislators from 14 states. Minutes from the call can be found on the NCOIL website [here](#).

If you joined the call and would like to the chance to discuss any issues further, please reach out to NCOIL General Counsel Will Melofchik at wmelofchick@ncoil.org.

We will continue to serve as the national insurance and financial services legislative policymaking and educational forum during these unprecedented times. I hope to be able to see you all soon.

Continued best wishes,

Matt

PRIA Cont'd

PRIA would operate entirely prospectively, enabling businesses, professionals and associations to procure pandemic coverage in the future because insurers will not exclude it once a federal backstop is in place, much like terrorism insurance became available once the Terrorism Risk Insurance Act (TRIA) passed. PRIA would be triggered if industry losses exceed the \$250 million threshold.

"We look forward to working with Congresswoman Maloney to make sure that there is not unlimited liability for the insurance industry. NCOIL agrees that it is important that the insurance industry participate in the PRIA system; however, it is imperative that any legislation not threaten the solvency of the industry or companies within it," Lehman continued.

Following the tragedy of 9/11/2001, Congress moved in a way that addressed both the immediate crisis and a prospective solution by enacting both TRIA and the Air Transportation Safety and System Stabilization Act and included within it the Victims Compensation Fund (VCF). NCOIL urges a similar solution now for the legion of businesses and professionals who are suffering from unprecedented costs from the interruption of their businesses as well as the many associations who have had to cancel their events, virtually all of whom have an exclusion in their business interruption and event cancellation policies for communicable diseases.

Lehman concluded that "it is important that NCOIL remains part of the discussion with Congress since, among other things, any plan will involve the states' role in maintaining insurance industry solvency".

In the VCF it was necessary to construct an entire claims adjudication process. NCOIL believes this can be avoided for the current pandemic emergency. These claims, while contractually excluded, are not novel; they are the very type of claims that U.S. insurers have been adjudicating for over a century. In addition to PRIA, NCOIL suggests that a Congressional Act creating a COVID-19 Business Interruption & Cancellation Claims Fund (COVID Claims Fund) incorporate the usage of the insurance industry's claims processing systems to handle claims processing for the Fund in order to ensure all claims are validated prior to payment, removing any that do not meet the established criteria.

NCOIL CEO, Commissioner Tom Considine said, "While the introduction of PRIA is a positive development to protect businesses, professionals, and associations from losses due to a future pandemic or outbreak of communicable disease, it is imperative that a COVID Claims Fund be enacted and set up so that those that have already been harmed by COVID-19 receive the help that they deserve. NCOIL's communication with Congresswoman Maloney regarding PRIA will be vital in ensuring there is not crippling exposure for the insurance industry."

Bill text for H.R. 7011, the Pandemic Risk Insurance Act of 2020, can be viewed [here](#).

ARTICLES OF ORGANIZATION & BYLAWS REVISION COMMITTEE HAS INTERIM CONFERENCE CALL

Throughout the past several weeks NCOIL has been among the organizations across the world that has taken time to reflect on whether any changes to its normal method of conducting business should be altered to account for any future emergencies.

Accordingly, Chair David Livingston (Sen. – AZ) and Vice-Chair Ellen Spiegel (Asw. – NV) hosted an interim conference call meeting of the NCOIL Articles of Organization & Bylaws Revision Committee on Thursday, June 11th to discuss and consider proposed amendments to the NCOIL Articles of Organization & Bylaws. After extensive discussion including detailed comments from interested parties, the Committee adopted the Amendments with minor revisions. They will now move to the Executive Committee for final consideration. The Amendments can be viewed [here](#).

Please direct any questions or comments to NCOIL General Counsel Will Melofchik at wmelofchik@ncoil.org.

NCOIL WORKERS' COMPENSATION INSURANCE COMMITTEE HAS INTERIM CONFERENCE CALL

The National Council of Insurance Legislators (NCOIL) Workers' Compensation Insurance Committee, Chaired by Kentucky Representative Bart Rowland, held an interim conference call on May 29th to discuss the overall impact of COVID-19 on the workers' compensation insurance marketplace. The discussion was highlighted by the efforts taken by several states to expand access to workers' compensation coverage for COVID-19 to include all workers labeled "essential."

Chair Bart Rowland (Rep. – KY) stated, "[t]hank you to all who participated on this call to discuss some very important and timely issues that our nation is facing. After listening to comments from both supporters and opponents of presumptions for COVID-19, NCOIL can better assess the situation going forward."

"The interim conference call meeting was the highest attended teleconference meeting NCOIL has held since I've been here, or that is reflected in NCOIL's records" stated Cmsr. Tom Considine, NCOIL CEO. "We had over 100 participants which included 18 legislators from 14 states, which is just terrific," he continued. Minutes from the call can be found on the NCOIL website [here](#).

"Of course, panelists had different views on the matter, which we expect when we have discussions like this at NCOIL. I feel that this was very beneficial, and the call gave the committee members much to consider. One thing most of us can agree on is that this virus is unlikely to go away soon and pressure is growing to help the employees of essential businesses, which naturally puts some attention on the workers' compensation system," Rowland concluded.

Consistent with NCOIL's longstanding policy, panelists presented views from multiple perspectives on the issue. Speakers included: Jeff Eddinger, Senior Division Executive for the National Council on Compensation Insurance (NCCI); Mitch Steiger, Legislative Advocate at the California Labor Federation (CLF); Richard Marcolus, Chair of the New Jersey Council of Safety & Health (COSH); Dr. Robert Hartwig, Clinical Associate Professor in the Finance Department and Director at the Center for Risk and Uncertainty Management at the Darla Moore School of Business University of South Carolina; and Erin Collins, Vice President of State Affairs for the National Association of Mutual Insurance Companies (NAMIC).

NCOIL President, IN Rep. Matt Lehman stated, "The long-term economic impact of COVID-19 is currently unknown. NCOIL is dedicated to learning as much as it can in order to find the best solutions to the devastating effects of the virus. In the context of the workers' compensation system, it is paramount that industry solvency is maintained and employees have benefits when they need them most."

Considine said, "When issues like this arise, NCOIL is a great forum to help educate legislators from different states with similar goals by having a conversation to improve the quality of public policy. There is no question that there is a natural tug to want to provide compensation to essential workers who have fallen ill to COVID-19. The workers' compensation system exists because of the risk of getting sick or injured on the job, but the illness or injury has to arise 'out of the employment' or in the 'course of employment' to be covered. The dilemma is twofold whether COVID meets either of those tests and whether the system can handle a pandemic. Congress and state legislature must best balance the interests of businesses, employees and insurers in making these policy choices."

If you joined the call and would like to the chance to discuss any issues further, please reach out to NCOIL General Counsel Will Melofchik at wmelofchik@ncoil.org.