

OUTSIDE THE BELTWAY



Self-insurance, particularly self-insured employee health plans, continues to be targeted by an increasing number of states with restrictive laws, regulations or taxation schemes that trespass on ERISA protections. The threatening environment continues to test SIIA's ability to fulfill its mission to protect and promote self-insurance.

An ongoing state-by-state government relations process has taken SIIA staff and member activists to many state capitals as they advocate for beneficial measures or defend against those that could harm the self-insurance industry.



New York

After a multi-year lobbying effort, grandfathered stop-loss policies for groups of 51-100 have been given another extension. SIIA is pleased that the legislature included this with a number of other “extenders” in budget legislation.

As background, instead of permanently extending tax and insurance provisions, legislators generally extend them for one or two years in the New York State budget. While a permanent fix is preferred, SIIA is hopeful that the grandfathered stop-loss legislation can be extended like this in the future.



Massachusetts

Senate Docket 2888 has been introduced and would require all smaller business interruption contracts to cover and reimburse COVID. The legislature has a number of co-sponsors and has yet to be assigned to a committee. A coalition letter of opposition has been sent to the Senate President and the Assembly Speaker.

Absent a federal reinsurance program, there are some concerns that this legislation may advance. SIIA will continue to work with allies to oppose it.

The appropriate legislative text can be found on pages 239-240 of the Transportation Budget legislation, A.9508-B/S.7508-B. You will see that the legislature has extended the grandfather contract period by one year and would permit contracts to be renewed past January 1st, 2021.



New Jersey

New Jersey Assembly Member Roy Freiman introduced A.3844 which, like the other bills, requires business interruption coverage to pay COVID-related claims.

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The bill has been pulled from further consideration and, at this time, no action is likely for at least two months. However, the legislator has indicated his desire that the “insurance industry” find a solution to this problem and SIIA will remain engaged on this issue.



New York State

Several Assembly Members, none of whom who serve on the Assembly Insurance Committee, have introduced A.10226. SIIA has signed a coalition letter to insurance committee leadership and Assembly and Senate leadership opposing the legislation. The letter will be sent once other coalition partner signatories are finalized.

SIIA understands that, at this time, the legislation is unlikely to move. However, as New York State has been heavily impacted by COVID, this legislation will need to be monitored closely. The legislature will adjourn in mid-June



Ohio

House Bill 589 has been introduced by two members of the minority party, neither of whom is on the insurance committee. SIIA has been advised that leadership understands the solvency concerns and the legislation appears to be unlikely to advance.



Pennsylvania

House Bill 2372 was introduced this past weekend by about 40

members of the House, mostly in the minority party, and no member of the committee of jurisdiction's majority.

SIIA is still gathering intelligence on the legislation, but the bill will need support from a majority of the insurance committee to advance. It does not appear to have it at this time.

In response to this development, SIIA will be filing a coalition letter of opposition.



Rhode Island

Representative Joseph McNamara, Chair of the House Committee on Health, Education and Welfare, has announced that he will introduce COVID business interruption legislation. His press release announcing his intent is [here](#).

As in Pennsylvania, SIIA will be filing a coalition letter of opposition once the legislation is introduced.





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COVID STOP-LOSS RESOURCES

SIIA is developing a stop-loss resource to help carriers, TPAs and brokers keep track of critical state laws. The chart will note state stop-loss group size prohibitions and small employer contract requirements.

The intent of this resource is to help SIIA members comply with state laws and regulations should a plan sponsor downsize. The chart is currently being reviewed by compliance staff and will be available shortly.

SIIA has compiled a chart of state insurance department bulletins that request or require carriers to allow grace periods for premium payments. Contact SIIA for a copy.

COVID Business Interruption Insurance Legislation

State legislators in a number of states have introduced proposals requiring business interruption coverage to pay for COVID-related claims whether the insurance policies included it as a benefit or not. SIIA members have expressed concern that if these laws were to pass, states may attempt to force self-insured risk to cover the benefit too.

Most of the currently proposed bills are aimed at helping only smaller employers with 100 or fewer employees. As of now, no legislator has filed legislation that would require business interruption insurance to cover COVID claims for employers of all sizes.

Responding to SIIA member concerns, SIIA has joined a coalition to fight the legislation and will take additional advocacy steps, beyond sending coalition letters of opposition, as they become necessary.

As most know, pandemics are generally excluded from business interruption coverage, and, in many cases, state or local officials have ordered non-essential businesses to close, causing the "interruption."

As of now, SIIA has been advised that the two bills of most concern on this topic are being considered in Massachusetts and Rhode Island.

Should you have any or if you would like to alert SIIA of new state legislative and regulatory activity (health care, workers' compensation and/or captive insurance matters), please contact Adam Brackemyre, Vice President of State Government Relations directly at 202/595-0641, or via e-mail at abrackemyre@siia.org. ■