



GOVERNMENT MATTERS

E-NEWS OF NOTE FROM GOVERNMENT RELATIONS

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Mid-Year Legislative and Regulatory Update

When the reality of the COVID-19 pandemic began to come into greater focus this March, state legislatures across ERIE's footprint were in various stages of their respective sessions. Some had already adjourned, while some were only part-way through their schedules for the year, and the way each body proceeded was every bit as varied. Below is a mid-year recap of state legislative sessions, and for some states, a glimpse at what lies ahead for the remainder of 2020.

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Pennsylvania

Like most states, most activity in the Pennsylvania General Assembly since March has been dominated by COVID-19 related issues. Only recently has attention begun to shift toward non-COVID legislation. Below is the status some legislation of interest:

- **NAIC Credit for Reinsurance Model**: SB 1195 originally dealt with updates to the Pennsylvania Life and Health Insurance Guaranty Association, but the bill was amended to also include the NAIC changes to Credit for Reinsurance which APCIA supports. The bill, which is also supported by the Insurance Department, passed the Senate and will now go to the House.
- **Electronic Power of Attorney**: This bill would allow auto insurers to use electronic power of attorney documents for salvage transfers. Industry partners strongly support this bill. The bill passed the House and Senate and awaits the governor's signature.
- **Stacking Requirement Repeal**: This bill would amend the Motor vehicle Financial Responsibility Law to repeal the current UM/UIM stacking requirements. The bill would also allow consumers to purchase more UM/UIM insurance than their bodily injury limits. The industry has been working for quite some time to get this legislation introduced so as to address the confusion and troublesome court cases related to current requirement in this regard. While it is positive that the bill has been introduced, the bill will be opposed by the trial bar and passage will likely require some type of negotiated arrangement with them. Accordingly, given the late stage of session and the other pressing issues that the General Assembly is dealing with, securing passage of this will be an uphill climb.
- **Public Works Construction Bonds**: This bill would limit discretion for security in public works projects and would increase the bond threshold from \$10,000 to \$50,000. The bill has been stalled.

- **COVID-19 Insurance Issues** - Business Interruption: A number of business interruption mandate bills have been introduced, but none are getting serious consideration or are a serious threat at this time. Workers Compensation Presumption: A COVID-19 workers compensation presumption bill for life sustaining employees has been introduced but it is not under serious consideration at this time.

District of Columbia

The D.C. Council has kept its virtual monthly schedule during the COVID -19 emergency, with a focus on pandemic-related and budget issues. Among recent issues the industry is tracking in the District are the following:

- **Business Interruption Legislation**: Legislation to mandate business interruption coverage in the District has taken center stage during the pandemic. The concept had momentum heading into an early May Council meeting; however, unprecedented industry defensive efforts, including lobbying at the Council, DISB and U.S. Congress as well as grassroots and public affairs, helped raise enough concerns by councilmembers to withdraw those provisions. The issue has not resurfaced at subsequent meetings, but the industry remains vigilant.
- **Credit Reporting Provisions**: Beyond that battle, the Council also passed emergency legislation in May that included credit-reporting provisions for COVID-19 related circumstances that are challenging for insurers to address in practice. The industry and ERIE are working with DISB and its vendors to comply with these provisions.

Illinois

The legislature remains a challenge politically for most of business and industry given what is a more progressive Democratic majority now and one that continues to be dominated by influence from the plaintiffs' bar and Labor. Currently, the legislature is scheduled to return in the fall for veto session, in which any of the issues below may be addressed.

- **Auto Body Repair Procedures** – Industry-opposed legislation regarding insurer restrictions on the use of certain auto body repair procedures will remain in the House Insurance Committee.
- **Improper Claims**– Legislation that would make it an improper claims practice for an insurer to fail to pay applicable tax, title, and transfer fees for all first-party and third-party claims on a replacement vehicle, will remain in the Committee on Assignments. This legislation was promoted by the Independent Insurance Agents' Association; industry trades were working closely with them to improve the bill when session was abruptly curtailed.
- **Peer to Peer Car Sharing**– Peer to peer car sharing legislation based on the NCOIL model was introduced at the request of APCIA but remains in the Senate Assignments Committee. This bill will most certainly be considered in 2021.
- **Towing**– Two positive towing bills remain in the House Rules and Senate Assignments Committee, respectively. More serious consideration of these positive initiatives is expected next year.
- **Cyber/Data Privacy**– More than a dozen cyber/data privacy related bills, including the NAIC Model Cyber Bill and various California-style cybersecurity bills were introduced for consideration but did not progress. These combined subjects will certainly be at the top of the legislature's "to do" list in 2021.
- **Public Adjusters** – Legislation aimed at addressing rogue public adjusters was introduced at the request of the Independent Insurance Agents and remains in the House Insurance

Committee. Industry trades will continue to work with the agents' associations and the Insurance Department to strengthen the bill's enforcement provisions.

- Dog Breed – Industry-opposed legislation to prohibit insurers from using dog breed alone for rating and underwriting, will remain in the Senate Insurance Committee.
- Tort/Venue – Legislation to alter the current venue law to specifically benefit plaintiffs remains pending in the Judiciary Civil Procedure Committee. This legislation was the Illinois Trial Lawyers Association's (ITLA's) top issue for 2020. Industry trades vigorously opposed this bill but expect it to resurface again soon, perhaps even later yet this year.
- Joint and Several Liability – Positive reform to the joint and several liability law that will benefit defendants was pushed strongly by industry ally the IL Defense Counsel. However, the bill is likely to remain in the Senate Assignments Committee.
- Workers' Compensation – In addition to the enacted COVID-19 coverage presumption (see below), the legislature considered a variety of bills this session that remain pending, including bills dealing with premium regulation/excessive insurer profits, coverage for repetitive injuries and rating prohibitions in certain situations, and coverage for PTSD for police and firefighters.
- **COVID-19 Insurance Issues** - A few key COVID-19 related bills were enacted, including legislation to create a ten-person task force to review information and material associated with business interruption related insurance (industry trades expect to be included on the task force) and budget legislation with provisions establishing a state business interruption insurance grant program for qualifying employers, to be used as a mechanism for distributing various federal funds the state receives for coronavirus relief. Finally, after a contentious rule was issued and ultimately repealed after becoming the subject of litigation, workers' compensation presumption legislation was negotiated between business and labor representatives and was ultimately enacted in the final days of session. The legislation establishes a rebuttable presumption of workers' occupational disease coverage for a broad collection of employee classifications from March 9, 2020, through December 31, 2020, establishes positive evidentiary standards and workplace safety protection requirements for use in determining the presumption and requires a positive COVID-19 test result for cases after June 16, 2020. The legislation also specifically authorizes workers' compensation insurers to use the COVID-19 costs in the state loss cost computation.

Indiana

The 10-week session saw 903 bills authored, with only 168 bills reaching final passage.

Ultimately, the industry had a successful year passing several proactive pieces of legislation. Highlights of the session are as follows:

- Distracted Driving - A priority agenda item for Governor Eric Holcomb, a hands-free ban passed with little opposition and was enacted. While violators can be ticketed and face fines beginning July 1, 2020, the BMV cannot assess points for violations until July 2021, giving time for public education campaigns to be rolled out.
- Telephone Solicitation – Legislation was enacted to amend the 2019 law requiring telemarketers to register with the Attorney General Office that was found to be unintentionally restrictive to certain sellers.
- Insurance Omnibus- The enacted 2020 insurance omnibus bill includes: the NAIC Cybersecurity Model (which included industry amendments including an April 15 reporting date); electronic options for third party administrators; the UM/UIM fix for excess coverage;

independent agent licensing requirements; NAIC Reinsurance Model update; and provides an increase in investment options.

- Statute of Limitations - The bill was amended to remove civil sexual abuse reviver language and enacted with only criminal statute of limitations language.
- Workers' Compensation
 - E-delivery of Benefits - The enacted omnibus bill contains language allowing for the electronic delivery of workers' compensation benefits.
 - Ambulatory Surgical Centers – Different versions of legislation that would have added ambulatory surgical centers (ASC) to the workers' compensation fee schedule were passed by each chamber but ultimately negotiations in conference committee stalled and the bill died.
- Fraud Consolidation - A bill opposed by the Coalition Against Insurance Fraud would have eliminated the state's insurance-fraud law and install a new omnibus law consolidating criminal fraud statewide to streamline varied state fraud laws. The bill passed the Senate but was not taken up by the House, effectively defeating the bill for this session.
- Wrongful Death – A bill to increase the aggregate damages cap for a wrongful death action from \$300,000 to \$700,000 passed the Senate but was not taken up by the House, effectively defeating the bill for this session.
- **COVID-19 Insurance Issues** - With the legislature's adjournment in early March, COVID-19 legislation did not emerge. On the regulatory side, the Indiana Department of Insurance has been open and reasonable with the industry on various pandemic-related issues, keeping items like Business Interruption off the table, while requesting a moratorium on policy cancellations and non-renewals. On the workers' compensation presumption issue, the state's workers' compensation board provided early guidance that in Indiana, employers must decide whether an individual contracts the virus in the course/scope of their employment.

Kentucky

The legislature acted upon on a fair amount of legislation of interest to property casualty insurers. Following is a summary of legislative action:

- NICB Immunity/Premium Discount for Antitheft – Industry supported legislation was enacted providing the National Insurance Crime Bureau preferential protections for the purpose of sharing fraud related information with law enforcement officials; the legislation also substantially improves the scale of automobile insurance discounts, which must be offered to customers who utilize theft protection technology.
- Credit for Reinsurance - Legislation was enacted to conform Kentucky law to the provisions of the Credit for Reinsurance Model Law of the NAIC.
- Definition and Restriction of Acceptable Sources of State Law- Legislation originally narrowly focused on the recent American Law Institute (ALI) restatement of insurance was amended multiple times, ultimately to better reflect the model legislation of the National Conference of Insurance Legislators (NCOIL). The bill passed both chambers of the legislature but was vetoed by Governor Beshear, who stated that the bill violated Section 27 of the KY Constitution (separation of powers provision). Industry trades led the effort to overturn the veto and the bill was enacted into law.
- Exemptions from Notarization Requirements – Originating from the Insurance Institute of Kentucky based on feedback from ERIE, legislation was enacted to exempt from certain notarization requirements the transfer of a salvage vehicle from an owner to an insurer.

- Distracted Driving – Bills to enhance the state's distracted driving laws with more modern provisions failed to progress this year due to resistance from the House leadership.
- Peer-to-Peer Car Sharing - Peer-to-peer car sharing legislation, styled along the lines of the National Conference of Insurance Legislators' (NCOIL) model version, was introduced but did not progress due to related issues such as taxation of car sharing services, which industry trades resisted.
- Insurer Repair Practices - Objectionable legislation was defeated that would have penalized insurers' body shop and repair practices. This legislation was held in the House Banking and Insurance Committee.
- Towing Reform – Towing legislation partially styled along the lines of model NCOIL legislation but without rigorous enforcement provisions, was introduced but did not progress very far this year.
- Renewal with Altered Terms – Industry supported legislation that would permit easier renewal of insurance policies that have "altered terms" did not advance but will be studied further during the session interim for consideration in 2021.
- Statute of Limitations – Legislation that would have removed the current ten-year statute of limitations for sexual abuse claims failed to advance this session.
- No-fault (PIP) Reform/Repeal - PIP reform remains the top priority issue for the industry, but negotiations stalled pertaining to the draft that was being considered for 2020, which, in concept, would have proposed a shift to a medical payments coverage as a replacement for the current PIP system. Interested parties continue to discuss these issues in the interim.
- **COVID-19 Insurance Issues** - Legislation was enacted providing liability protection for health care providers and businesses making personal protective equipment and hygiene supplies responding to needs for the COVID-19 public health crisis; and authorizing the Chief Justice of Kentucky, for the duration of the Governor's declaration of a State of Emergency in response to the novel coronavirus (COVID-19), to declare a Judicial Emergency which extends any administrative actions deadlines, and statutory timelines and statutes of limitations for court filings and proceedings. On the regulatory side, Governor Beshear issued an executive order to create a workers' compensation presumption of coverage for a broad section of the workforce including grocery workers, post office workers, child advocacy workers, rape crisis center workers, domestic violence shelter workers as well as first responders and health care workers. The Kentucky DOI has issued several pieces of guidance in relation to the Governor's various Executive Orders, including guidance providing that insurers shall not deny a claim under a personal automobile insurance policy solely because the insured was engaged in delivery services on behalf of a business impacted by the closures necessitated by the Governor's Executive Order; local government premium taxes in relation to premium relief/refunds/dividends to policyholders; and a deadline extension for the mine subsidence insurance fund.

Maryland

The heavily Democratic legislature saw new faces at the top of the House and Senate this session following the departure of its long-time moderate leaders in 2019. This led to some committee reshuffling and a more progressive bent for the overall legislative agenda, according to APCA.

- Defensive Efforts on Underwriting/Rating, Tort Issues and Privacy: The industry played its usual intense defense on multiple fronts, including the follow areas.
 - The industry successfully opposed a perennial bill to restrict use of credit in auto insurance, as well as a bill to remove any time limit (currently 30 days) for consumers to file an auto

- premium protest. The industry also defeated a bill that would limit consideration of weather-related claims in property underwriting.
- Additionally, harmful tort bills implementing a statute of limitations revival for sexual abuse claims, an increase in the jury threshold limit, elimination of the “fireman’s rule” to increase insurer liability, and the addition of surety to the list of bad-faith actions were introduced but ultimately failed to move forward.
 - Finally, the business community engaged in fighting several onerous privacy measures. No action was taken on these bills.
 - **Rebating Modernization**: An industry and ERIE-supported bill to modernize the state’s rebating laws for mitigation devices was unsuccessful.
 - **COVID-19 Insurance Issues** - With the legislature out of session, the MIA has issued many guidance documents during the COVID-19 crisis. The agency has provided open communication and flexibility in terms of insurer responses. Fortunately, Maryland’s insurance market has not faced the most severe threats seen in other states, such as business interruption and workers’ compensation presumptions.

New York

Below are some of the issues of potential interest:

- **Expansion of DFS Authority and Fine Increases**: The Governor’s proposed budget had included troublesome provisions which would have increased the general Insurance Law fine from \$1,000 to \$10,000 and which would have given the Superintendent the authority to prosecute unfair, deceptive, and abusive acts and practices. The industry opposed these provisions and none of them were included in the final budget.
- **Commuter Van Legislation**: A number of objectionable bills intended to address increased insurance costs for commuter vans due to the increased financial responsibility limits for for-hire vehicles with a seating capacity of eight or more were introduced in the Assembly and advanced from the Insurance Committee earlier in session. The industry opposed the bills but there was much motivation from certain legislators to pass bills to purportedly address the affordability complaints of commuter vans. There was discussion about these bills in the context of budget negotiations and APCIA weighed in with our concerns. None of these provisions were included in the final budget.
- **Child Victims Act Extension**: The one-year window to file previously time barred claims related to the sexual abuse of minors is set to end on August 14, 2020 and there was a strong push to extend the window. While advocates were pushing for this before COVID-19, they particularly pushed once the COVID-19 crisis took hold, arguing that the crisis was preventing victims from filing claims in the remaining months of the window. Notwithstanding this push and the resonance that it seemed to have, provisions extending the window were not included in the budget.
- **Extension of Various Provisions Applicable to Property Casualty Insurance**: A group of laws applying to property casualty insurance were set to expire on June 30, 2020. The expiration of these laws would have likely been very disruptive. The extension of these laws until 2023 was included in the budget.
- **Legislature Passes Criminal Justice Reform Legislation**: The legislature passed a number of criminal justice reform bills including a bill that would publicly disclose incidents of police misconduct. The Senate has already adjourned and the Assembly is expected to adjourn soon. The legislature did not consider any legislation related to property and casualty insurance.

There is no word yet if and when the legislature intends to convene next and the agenda items they may pursue.

- DFS Launches FastForward Innovation Program: DFS has recently launched a new innovation program called FastForward. The program is intended to support financial services innovators, including in the area of insurtech. It is open to both DFS regulated and non-regulated entities. The Department's focus is to help support solutions that promote main street economic recovery, provide healthtech solutions, and promote stronger financial resilience in the realm of personal household finance. To help innovators connect with the Department, a webpage called DFS Next has been created which includes application forms and guidance.
- WCB Proposes Regulation Regarding Medical Bills and Reports: The WCB has proposed a regulation regarding medical bills and reports. The proposed regulation would allow the single mailing address and format required by the chair of the WCB for submissions of bills and medical reports. The public comment period for this proposed regulation ends on Monday August, 10.
- WCB Proposes Regulation on Medical Treatment Guidelines: The WCB has proposed a regulation regarding medical treatment guidelines. The proposed regulation would repeal carpal tunnel syndrome MTG and replace it with hand, wrist, and forearm, as well as add asthma. The public comment period for this proposed regulation ends on Monday August, 10.
- WCB Proposes Regulation on EDI System Updates: The WCB has proposed a regulation regarding EDI system updates. The proposed regulation would require carriers to report certain credits taken for payments to claimants; make changes to biannual reports; provide EDI 3.1 updates. The public comment period for this proposed regulation ends on Monday, August 10.
- **COVID-19 Insurance Issues - Business Interruption Mandate**: A business interruption insurance mandate proposal was introduced in the Assembly at the height of budget negotiations and, as such, there was concern that the sponsor may seek to include this language in the final budget. The insurance industry opposed the bill and it was not included in the final adopted state budget. We will continue to monitor this bill going forward and will work to ensure that it is not enacted as a stand-alone piece of legislation. There is presently no Senate sponsor. Presumption of Occupational Illness for COVID-19: Similarly, organized labor was actively pushing for language to be added to the state budget that would create an occupational disease presumption pursuant to the workers' compensation statute for employees who are affected by COVID-19. This proposal was not included in the final adopted state budget. COVID-19 Healthcare Immunity Provisions: The final adopted state budget included provisions that grant immunity, both civil and criminal, to health care workers and health care facilities that are involved in COVID-19 response efforts. The immunity provisions also extend to organizations/companies/institutions that make their facilities available to support the state's response efforts.

North Carolina

Here's a quick overview of recent industry issues, almost solely pandemic-focused, at the North Carolina General Assembly over the past couple months:

- COVID-19 Response Law: During the early May session, the state enacted a broad COVID-19 response law that included sections providing liability immunity for certain healthcare facilities and guidelines for video notarization.
- Liability Protection: During its later short session in June, the legislature passed a bill to limit immunity for businesses from COVID-19 liability.

- Business Interruption: While the issue of business interruption coverage was brought up in March at an interim meeting, it has not surfaced legislatively. In mid-April, Insurance Commissioner Mike Causey posted a letter in mid-April to business owners on the subject to provide clarification.
- Workers' Compensation Presumptions: A strong business and insurer coalition fought off two adverse bills to create a rebuttable presumption under workers' compensation policies that the disease was contracted while employed for front-line and essential workers.
- Other Issues: Finally, on non-COVID-19 related issues, the industry's distracted driving bill was considered briefly with some Senate support but remained stalled. The ongoing issues of roofing contractor fraud and auto regulatory reform were brought up but not considered given the tight timeline of the session.

Ohio

Many issues important to the insurance industry were priorities for the session, however due to political differences between the leadership in both chambers, a number of industry-supported items that originally saw hope of becoming law have been placed on hold. Several of these issues may resurface during an anticipated post-election lame duck session. The following is a summary of legislative action:

- Credit for Reinsurance – Legislation that would allow insurers in Ohio to claim reinsurance of risk as either an asset or a reduction in liability when the risk is reinsured by an insurer in a reciprocal jurisdiction and that meets certain criteria was passed by each chamber unanimously. However, due to disagreement over which of the identical bills should move to the governor for signature, neither chamber concurred with the other's bill, causing this measure to be left for a lame duck session.
- Statute of Limitations on Contracts – A bill shortening from eight to six years the period of limitations of actions on a contract in writing did not pass the Senate before the House recessed, meaning that the Senate could either concur with the bill this summer or move this item to the lame duck session.
- Insurance Code Revisions – Legislation offering technical changes to the Ohio insurance code drew some consternation when first filed as many were concerned that opening sections of the insurance code would allow for mischief to take place. However, those fears were allayed when it was realized that no major substantive changes were made. This bill does include a few items of note to the industry, including provisions to allow electronic signatures for salvage titles and to allow non-residents to operate as insurance adjusters if they are licensed in another jurisdiction. The bill passed the House and now sits in committee in the Senate, where it may be taken up during its truncated summer session.
- Fireworks Legalization – Legislation legalizing fireworks in the state of Ohio has broad support in both the House and Senate and is very likely to pass at some point this year. The industry continues to oppose efforts to limit restrictions on fireworks for safety reasons.
- Swimming Pool Operations – Legislation allowing certified swimming classes to take place at a private residential swimming pool without requiring the pool's operator to obtain a public swimming pool license was enacted. The industry secured an amendment to the bill that does not limit or restrict an insurer's ability to exclude insurance coverage from any insurance policy; underwrite any insurance policy; or create, imply, or otherwise grant insurance coverage not found in a policy of insurance.
- Distracted Driving – Despite broad support for a bill imposing a ban on handheld devices while operating a motor vehicle, the bill is not likely to move out of committee and onto the floor as

it is not a priority for leadership at this point. The next possibility for it to be considered would be the lame duck session this fall.

- **COVID-19 Insurance Issues** - Industry-supported legislation providing broad COVID-19 civil liability immunity to businesses and healthcare providers was considered this session. While there was broad support for the measure in both chambers, there were a number of sticking points amended into the bills, including a workers' compensation rebuttable presumption in the House bill and a problematic medical malpractice liability provision in the Senate bill. Due to differences between the House and Senate leadership, any chance of this bill passing this year now moves to the lame duck session in the fall. Legislation was enacted to toll specified limitation periods for various legal acts in response to the COVID-19 crisis, and on the regulatory side, the Ohio Department of Insurance has issued several COVID-19 Bulletins such as a temporary suspension of actions related to expired drivers' licenses, imposing 60-day grace periods pertaining to premium payments, and guidance on rate reductions and premium relief.

Tennessee

The legislature convened on January 14, 2020 for the second year of its two-year session, recessed in March due to COVID-19, and re-convened on June 1. Tensions were high returning to session as the House and Senate leadership disagreed on the breadth and scope of bills that would be considered in the remainder of this fractured session with the Senate only wanting to address the budget and urgent COVID-19 related items. Highlights of the session are as follows:

- Peer-to-Peer Car Sharing – Legislation containing language largely based off of NCOIL's peer-to-peer model with a few minor tweaks passed both chambers has been transmitted to the governor for his expected signature.
- Issuance of Salvage Certificates by Department of Revenue – Legislation was enacted that authorizes the department of revenue to issue salvage certificates to an insurance company or a salvage pool operator upon request in instances when the insurance company or salvage pool operator is unable to obtain the properly endorsed certificate of ownership within 30 calendar days following the acceptance by the owner of an offer of an amount in settlement of a total loss.
- Workers Compensation Claims and Notice of Injuries – Legislation was enacted to change the process of referring, filing claims, and giving notice of employee injuries. Part of the Administration's package from the Bureau of Workers' Compensation, the bill gives an injured employee more time to file a claim against an employer for increased benefits, among other changes. Prior to enactment, the bill was amended to effectively delete language that would have required an injured worker, whose treating physician has determined that such worker be referred to a specialist, be provided with a panel of specialists, rather than such panel only be provided upon the employer's request. Language was also removed that have which lowered the minimum impairment rating from ten percent (10 percent) to nine percent (9 percent), for increased benefit eligibility in extraordinary cases.
- Increased Property Damage Limit – Legislation was considered to increase from \$15,000 to \$25,000 the minimum amount of insurance coverage for property damage, but the bill ultimately failed. This issue is expected to return in 2021.
- Credit for Reinsurance – Legislation to enact the "Insurance Modernization Act," which contains the NAIC Model Credit for Reinsurance Update failed this session but would have likely passed but for the COVID-19 recess.
- **COVID-19 Insurance Issues** - APCI and a large coalition of business interests sought language to protect against frivolous lawsuits by providing COVID-19 liability protections for business and

health entities. The legislation ultimately failed in conference committee in the final hours of session when the House and Senate chambers could not agree on language. The Senate version made the protection retroactive while some House members argued the retroactivity was unconstitutional. Although the bill died, Gov. Lee has indicated plans to call a special legislative session to take up this issue. On the regulatory side, Gov. Lee issued an Executive Order providing Limited COVID-related liability protection for health care providers except in cases of gross negligence or willful misconduct, while the Department of Commerce and Insurance has issued guidance to carriers to work with policyholders and has issued a bulletin requesting carriers add delivery coverage for personal auto policies for restaurant employees engaged in delivering food on behalf of impacted restaurants.

Virginia

2020 was the first time in 26 years that Virginia Democrats have controlled both chambers of the legislature and the governor's office. Hot-button social issues, like guns and abortion, got the most press, but the business community had to take a much more defensive posture. Here is an overview of key insurance issues during the session:

- **FR Minimums, Tort and Workers' Compensation Defense**: The industry defeated a trial-bar effort to increase the minimum auto limits, an issue where ERIE remained neutral. The industry was also able to delay harmful bills on bad faith for UM/UIM claims and intentional infliction of emotional distress. Finally, the industry also fought off an attempt to undo the hard-fought workers' compensation medical fee schedule reform from 2016.
- **Auto Safety**: The session's best news might have been the enactment of a "hands-free" distracted driving law, following a years-long push by insurers and safety advocates. Other industry safety priorities, such as mandated rear seat belt use and primary seatbelt enforcement, unfortunately did not move forward.
- **Peer-to-Peer Car Sharing**: A new law established the regulation of peer-to-peer car sharing. APCI had participated in the DMV stakeholder group prior to the session to achieve the agreed-upon model language with insurer protections.
- **COVID-19 Insurance Issues** - The Virginia General Assembly adjourned in early March, so the COVID-19 legislative threats seen in other venues have not emerged. On the regulatory side, the Bureau of Insurance has been open and flexible with the industry on various issues during the pandemic-related state of emergency.

West Virginia

Republicans control the legislature and the governor's office, but Gov. Justice and legislative leadership have had public feuding over budget issues in recent years. The 2020 session was a particularly active one for insurance issues, as follows:

- **Peer-to-Peer Car Sharing Regulation**: The industry was active in making sure a new law establishing regulation of car sharing programs contained protections for insurers and their policyholders.
- **OIC Bills on Fraud and Adjuster Licensing**: The Offices of the Insurance Commissioner (OIC) pushed a bill to adopt new anti-fraud provisions following the NAIC model. The OIC also pushed for a new law on adjuster licensing with continuing education requirements.
- **Tort Reforms Fall Short**: Unfortunately, three key industry tort reforms failed to cross the finish line:
 - A bill to create an intermediate appellate court appeared to be close in the third attempt in as many years but failed in the House on the last day of session.

- ERIE's trades pushed a bill to clarify the recent overreaching American Law Institute (ALI) Restatement of the Law of Liability Insurance, but it was amended before Senate passage and not considered by the House.
- Likewise, a bill to allow lack of seatbelt use to be used in trials ended up watered down with amendments that derailed the bill.
- Medicaid Subrogation Victory: Finally, legislators passed a bill to change the state's Medicaid subrogation statutes despite strong insurer concerns about its impact. However, after lobbying efforts that included letters sent by ERIE and its trades, Gov. Justice vetoed the bill on March 25.
- COVID-19 Insurance Issues - The West Virginia Legislature adjourned by mid-March, so the Offices of the Insurance Commissioner has addressed COVID-19 issues. The OIC has been active during the crisis in issuing guidance, including a clarifying bulletin on business interruption coverage. That said, the OIC also issued an insurance scoring bulletin in mid-May with challenging COVID-19 related provisions on credit reporting. ERIE's trades are currently trying to get this revised.

Wisconsin

Highlights of the session are as follows:

- Public Adjuster Licensing - Industry-driven legislation regulating public adjusters was enacted. The new law requires public adjusters to register with the Insurance Commissioner after passing a written examination and supplying a performance bond in accordance with the Commissioner's specifications. The Commissioner must maintain a list of registered public adjusters on the office Web site.
- Renewal with Altered Terms – Legislation was enacted requiring an insurer offering policy renewal at less favorable terms or premiums to notify the insured 45 days in advance (changed from 60 days).
- Penalties for Financial Responsibility Violations - Legislation concerning penalties for violations of the state's mandatory insurance law, proof of financial responsibility, and operating a vehicle without a license or after suspension, among other changes, was not taken up on the Assembly floor after advancing from the Assembly Transportation Committee. The bill was amended in committee adding components of separate legislation to allow religious sects to self-insure for the purposes of mandatory auto insurance financial responsibility, but ultimately did not advance.
- Cyber/Data Security
 - NAIC Model - NAIC cyber security model legislation advanced the Assembly after industry advocacy on the measure, and although it was expected to pass on the last day of Senate session, the bill ultimately did not advance.
 - European/GDPR-style Data Privacy - Three European/GDPR-styled data privacy bills to create the "Wisconsin Data Privacy Act" (WDPA) were introduced and heard in Assembly Committee. These bills met with swift business and industry opposition and did not get a vote; however, this issue is expected to come up again in the 2021-2022 session.
- Statute of Limitations on Sexual Abuse – A package of bills focused on sexual abuse failed this session, including proposed expansion of abuse reporting requirements on clergy and a three-year window to allow revival of otherwise time-barred claims.
- Workers' Compensation - Legislation to allow claims for compensation for post-traumatic stress disorder by police officers and firefighters under the workers' compensation law was amended

in the Assembly to include numerous provisions of the Workers Compensation Advisory Council (WCAC) agreed-to bill, including an ERIE-sought provision that would provide insurers billing statements upon request. Although the bill was sent back to the Senate for concurrence, it ultimately failed to advance.

- **COVID-19 Insurance Issues** - The legislature passed and Governor Evers signed 2019 Wisconsin Act 185, the state's COVID-19 pandemic response, into law on April 15, mere hours after the Senate sent it to his desk. The industry worked to secure inclusion of critical provisions important to our industry, including workers' compensation provisions outlining specific presumptive liability parameters as well as a civil liability exemption for manufacturers and health care workers responding to the public health emergency related to COVID-19. The Office of the Commissioner of Insurance (OCI) has issued several bulletins in response to COVID-19, including an order that insurers shall not deny a claim under a personal auto policy solely because the insured was engaged in delivering food on behalf of a restaurant impacted by the restaurant closure.