

Minutes
Public Act 101-0640
Business Interruption Task Force Meeting #5
October 26, 2020
11:00am-12:30pm
Locations:
CALL-IN ONLY
Call-in Information
Phone Number: 1-312-535-8110
Access Code: 1334816655#

I. Opening Comments

Erica Weyhenmeyer welcomed members and guests to the Business Interruption Task Force Meeting and thanked the members for volunteering their time and expertise for the duration of these meetings. She also stated the objective as outlined by the statute, which is to “Study the impacts of the COVID-19 pandemic on businesses and the need for changes to business interruption insurance policies based on those impacts, including recommendations for legislation.”

Erica noted that task force members, when answering questions from the public or media, are not authorized to speak on behalf of the task force. She stated that since this is an open meeting, if there are any members of the public or media present, please be aware that if you are speaking with a task force member, any comments by the task force members do not represent the opinion of the task force. This distinction ensures the group is consulted before any formal communication is made on behalf of the task force. She also made clear that the task force does not intend to issue a public comment prior to the final report. The intent of this is to foster open dialogue as the group prepares recommendations. The final report will be the only public comment made by the task force.

She stated that the task force is designed to consider possible systemic issues with business interruption policies and will not be commenting on any pending legal action or complaints filed with the Department.

Erica noted for the task force members that Shannon Whalen has replaced Lauren Peters on the task force.

Erica then went over guidelines related to the technological platform being used.

II. Roll Call of Members/Guests

Erica asked members and guests to introduce themselves.

Members in attendance (alphabetically):

1. Saat Alety, Allstate
2. Chuck Feinen, State Farm
3. Norine K. Hammond, Representative
4. Napoleon Harris, III, Senator
5. Kevin Martin, Illinois Insurance Association
6. Andrew Perkins, National Association of Mutual Insurance Companies
7. Sue Rezin, Senator
8. Steve Schneider, American Property Casualty Insurance Association
9. Shannon Whalen, Department of Insurance

Companies with an announced attendee (alphabetically):

1. American Family
2. AIG
3. American Property Casualty Insurance Association (APCIA)
4. Chubb
5. Illinois Insurance Association
6. ISO
7. J W Hammer, LLC
8. Katten Muchin Rosenman LLP
9. Liberty Mutual
10. Nationwide
11. Shaddock & Associates
12. Traveler's
13. University of South Carolina
14. Zurich

III. Minutes Adoption

Erica asked if there were any corrections to the draft minutes from last meeting. No corrections were suggested. Erica asked if there was a motion to accept the minutes. Andrew Perkins made a motion to accept the minutes. Representative Hammond seconded the motion. All were in favor and none opposed. The motion passed.

IV. Objective

Erica restated the objective of the task force, which consistent with PA 101-0640, is to “Study the impacts of the COVID-19 pandemic on businesses and the need for changes to business interruption insurance policies based on those impacts, including recommendations for legislation.” A report on findings and recommendations is due to the Governor and General Assembly by December 31, 2020.

V. Federal Legislative Proposal Presentation - John Fielding, SVP and General Counsel, Global Government and Industry Affairs with Chubb Insurance Company, presenting their Chubb Pandemic Business Interruption Program.

John started by reminding the task force that Business Interruption insurance generally does not cover pandemic risk and reiterated that it is widely accepted that pandemic risk is uninsurable, which means government must play large role in closing the protection gap caused by pandemics. There is a role for insurers, too, and with carefully constructed federal government program, insurers can help bear risk, and can provide mitigation and other benefits.

Chubb feels that there are ten questions that must be addressed in any plan. Does the plan require insurers to assume part of the risk and how much? Who is covered by the plan? Are insurers required to offer the coverage? Are businesses required to purchase the coverage? Is a premium charged? Are there policy limits? What is the program limit? How is the program triggered? How are claims adjusted? How are reinsurance and excess coverage addressed?

Chubb sees several key attributes for a successful program, starting with a meaningful role for the insurance industry to share pandemic risk with the government as opposed to just an administrative role. This is important because industry's involvement can help drive better behaviors and lead to a better understanding of pandemic risk and better risk mitigation and preparedness. It must have a structure that meets the different needs of small, medium, and large businesses, because pandemics do not affect all

businesses equally, with small businesses facing harder challenges. Solutions should ensure affordability for small businesses, with strong incentives to purchase business interruption coverage while still maintaining choice. It should include effective incentives for broad participation by the insurance industry and finally, be fiscally responsible.

Chubb's proposal is a private-public partnership that combines the ability of the insurance industry to assess and absorb risk onto its balance sheet, while also using its administrative infrastructure with the backing of the government, including subsidized premiums, because the magnitude of potential loss makes pandemic broadly uninsurable.

Chubb's proposal created a framework that has two main components, one for small businesses and another for medium and large businesses. This is the defining feature of Chubb's proposal and differentiates it from other proposals. The first part of Chubb's proposal BIP (Business Expense Insurance Program) is aimed at small businesses, business with fewer than 500 employees.

The policies would be issued as an endorsement to an existing worker's comp or business owner policy. It provides an immediate infusion of cash based on pre-set multiples of payroll at time of policy purchase and is paid promptly upon declaration of pandemic. It would be mandatory offer, so all insurers that offer business insurance would need to offer the coverage, with voluntary purchase, so businesses would not be required to purchase. However, those that do not enroll will not qualify for government relief which will incentivize enrollment.

The policy limits would be based on three months of payroll, and there would be a 14-day waiting period following the declaration of a pandemic. Claims would be paid through a parametric structure, which provides certainty for the policy holder and avoids challenging claims processes. There would be no premium charged for the government portion of the coverage. The only premium that would be charged would be to cover the risk assumed by the insurer.

The program limit is \$750 billion and there are two layers. The first layer is \$250 billion. The industry share would be 6%, or \$15 billion in the first year, up to 12%, or \$30 billion, over the course of 20 years. The second layer is \$500 million, in excess of the first \$250 million. The triggers would be driven by CDC medical criteria, a Declaration of Emergency by HHS or the President, and federal, state, or local lockdowns. It would also exclude Covid-19 specifically.

The second part of Chubb's proposal targets medium and large businesses with more than 500 employees with a standard reinsurance program Pandemic Re. It would be an indemnity-based program where the insurance industry players and the government would be paid a risk adjusted price for pandemic coverage. It would use traditional claims handling, without a parametric trigger.

The participation of businesses and insurers is voluntary. The premium is risk based. The policy limits are up to three months of expenses with a maximum of \$50 million. There's a per policy limit to maintain capacity. The total program limit is \$400 billion. The industry share in the first year is a maximum of 5%, or \$15 billion, rising to 10%, or \$30 billion over the 10-year length of the program. The triggers would be driven by CDC medical criteria, a Declaration of Emergency by HHS or the President, and federal, state, or local lockdowns. It would also exclude Covid-19 specifically.

Erica opened the floor for questions on Chubb's proposal as well as any questions regarding previous presentations.

Kevin Martin of IIA asked John Fielding of Chubb how Chubb planned to unveil their proposal at the federal and state level. John responded that there has been a lot of dialogue between stakeholders

regarding various proposals and they have reached out to federal and state legislators, noting that it is unlikely that federal action will happen this year. Chubb has done presentations for NCOIL and the NAIC.

Deirdre Manna from Zurich added that Congress is still considering a relief package for the pandemic.

Representative Hammond asked John Fielding of Chubb if there was a baseline number of participants needed for the program to work. He responded that they did not have baseline of people who would need to buy in and noted that their framework was developed in April and May and the continuation of the pandemic might mean proposals and solutions might evolve.

Steve Schneider from APCIA summarized two programs on the state level that are relevant to the task force. The first is a safe workplace consulting program by the Department of Labor called Back to Business Illinois that connects small businesses with consultants from the department's Workplace Safety and Health Consultation Division to work through safety issues to guard against COVID-19 exposure. The second program from DCEO is a business interruption grant program using in economic relief funds of federal money from the CARES act.

Shannon Whalen added that existing Illinois programs are nicely summarized in documents prepared by DCEO and that Erica can provide a link to members with that information. Once task force members have had the opportunity to review the information provided in the link, Shannon would be willing to go back to DCEO if any further points of clarification are needed.

Steve and Andrew Perkins of NAMIC agreed this would be helpful. Andrew reiterated that he has been working on a breakdown of the dispersal of funds by legislative district that would be helpful for legislators especially and would provide materials to the task force.

Representative Hammond agreed that the breakdown would be helpful and requested an overview of the proposals that have been presented. Deirdre reminded the task force of the chart of existing proposals that was presented by Don Griffin from APCIA and Erica agreed to send out the chart as well as all the current proposals to the task force as well as the DOL and DCEO program overviews.

VI. Structure of Meetings/Next Steps

Erica reminded the task force that the purpose of the meeting on October 29th was set so members can begin work on the first draft of the report and mapping out which members would be responsible for which portions of that report. Chuck Feinen motioned to accept the agenda for the October 29th meeting, Steve Schneider seconded. All were in favor and none opposed. The motion passed.

VII. Comments

The meeting was opened for public comments. There were no comments.

VIII. Adjourn

The Meeting adjourned at 11:44 AM.