



**STATEMENT BEFORE THE U.S. SENATE COMMITTEE ON BANKING, HOUSING
AND URBAN AFFAIRS SUBCOMMITTEE ON SECURITIES, INSURANCE AND
INVESTMENT FOR A HEARING ON EXAMINING FRAMEWORKS TO ADDRESS
FUTURE PANDEMIC RISK**

July 22, 2021

Founded in 1931, the National Association of Professional Insurance Agents (PIA) is a national trade association that represents independent insurance agencies and their employees. PIA members sell and service all kinds of insurance but specialize in coverage of automobiles, homes, and businesses. PIA represents independent insurance agents in all 50 states, Puerto Rico, and the District of Columbia.

Independent insurance agencies play a particularly important role in delivering insurance products to commercial businesses, large and small, throughout the U.S. The COVID-19 virus wreaked havoc on ordinary life and devastated our economy. During this difficult time, independent agents stepped up, as they always do in a crisis, to offer as much help as they could to their clients.

PIA supports policy proposals that will help its members and the small business community at large maintain liquidity and solvency as we emerge from these tumultuous economic times. During the pandemic, we urged Congress to provide relief for small businesses. As the economic crisis posed by the COVID-19 pandemic recedes, we appreciate the Subcommittee's attention to the potential economic consequences of a future pandemic, and we will continue to seek out policies that meet the needs of small businesses as the recovery progresses.

PIA's Guiding Principles for a Policy Governing Future Pandemics

- **Utilization of Public-Private Partnership:** If the Senate considers a legislative solution to a future pandemic, PIA views a government backstop in the form of a public-private partnership as the best possible method of providing commercial policyholders with coverage for pandemics.
- **Affordability for Small Businesses:** A legislative solution must be affordable for businesses of all sizes, including small businesses.

- **Deployment of Existing Insurance Framework:** PIA members prefer to work within the framework of the insurance industry. We favor proposals that use the existing insurance framework over those that would require insurance agents to deliver a non-insurance product to consumers.
- **Focus on the Future:** Proposals should be future focused. They should allow businesses to properly budget for pandemic risk protection and make considered, informed decisions about their participation in any federal program. We strongly oppose any proposal that would retroactively rewrite existing contracts containing business interruption (BI) exclusions.

Public-Private Partnership

A public-private partnership is essential to ensuring that a future pandemic does not result in economic disaster for small businesses. In the past, similar steps have been taken to create markets for flood and terrorism risk insurance and, while it would be challenging, the insurance community can create similar products for pandemics, but only if the industry has access to a public-private partnership.

Without a federal government backstop, it is unclear that insurers could provide coverage for losses resulting from pandemics. With such a backstop, losses that arise out of future pandemics could, perhaps, be insurable. The creation of a private market for a new group of products could strengthen the entire industry. PIA's long-term objective is for the private industry to provide insurance products that cover pandemics.

Pandemics are unpredictable in both frequency and severity. Carriers may be reluctant to offer coverage in circumstances in which they are unable to gauge the potential impact on industry surplus. However, along with insurance agents, carriers are well-suited to assist in the claims process after a loss occurs, and the presence of a government backstop could provide sufficient financial scaffolding to allow carriers to offer coverage that includes pandemics. A public-private partnership could provide the insurance industry with the financial support it needs to safely underwrite this unique risk.

PIA supports a framework built on a public-private partnership that utilizes the existing insurance framework and provides businesses with a realistic option for protecting themselves from the economic consequences of a potential future pandemic.

Affordability for Small Businesses

Any proposal must be affordable for small businesses. Policymakers should offer businesses of all sizes a way to avoid the economic disaster a future pandemic could cause. Many policy proposals offered last year that would have provided pandemic BI coverage would have also increased the cost for all kinds of BI coverage for small businesses. Proposals that increase the cost of BI coverage without offering offsetting savings will price out small businesses, making the purchase of BI coverage further out of reach.

Utilization of Existing Insurance Framework

PIA's members prefer to work within the framework of the insurance industry. Any proposal should utilize the existing insurance framework. Proposals that would require insurance agents to deliver a non-insurance product to consumers undermine the power of the agent salesforce. Independent agents represent the needs of their policyholders to insurers; they explain the intricacies of policy features and limitations and act as an intermediary between consumers and carriers. When agents are forced to sell non-insurance products, it can compromise their credibility and erode their relationships with their clients.

A public-private partnership that utilizes the existing insurance framework could, over time, help to cultivate the development of a private market that operates independently of the federal government.

Focused on the Future

Any proposal should be focused on the future so that businesses can budget for it and make informed decisions about participating. We strongly oppose any proposal that would retroactively rewrite existing contracts containing BI exclusions.

The business community requires assistance to thrive in the aftermath of the COVID-19 pandemic. One typical source of such assistance is BI coverage, which allows businesses to file insurance claims for (typically physical) losses resulting from interruptions to their ordinary course of business. BI coverage is routinely available to businesses that are forced to close because of physical damage sustained in a hurricane or tornado, for example. However, most BI coverages exclude losses caused by intangible conditions like viruses or gas leaks.

One troubling suggestion proposed last year in state legislatures and the U.S. Congress was to require insurers to retroactively recognize financial losses triggered by the coronavirus outbreak as part of their policyholders' BI coverage, even in policies where such coverage was contractually excluded. If adopted in the future, such a proposal would override existing BI exclusions and force carriers to cover losses associated with government-mandated closures and shelter-in-place orders arising from a pandemic, even where the affected policies were written, sold, and purchased with the opposite expectation by everyone involved. Such a proposal would essentially override the exclusion for losses due to viruses and eliminate (often statutory) requirements that losses be a direct result of damage to or loss of physical property.

Insurance policies are priced and sold based on the likelihood of the policyholder experiencing a covered loss, the risk of which is calculated by actuaries and underwriters. Moreover, commercial insurance policies are contracts entered into by businesspeople with extensive background knowledge and experience on both sides. Legislators should not have the power to rewrite private contracts. The unanticipated consequences of such a proposal would harm everyone involved and would create additional financial instability and uncertainty at a time of extraordinary economic turbulence.

Most importantly, retroactive BI would leave many small businesses behind, because many small businesses do not have business interruption coverage at all. As such, using retroactive BI to help businesses stay afloat during a pandemic would not have helped many of the small businesses that struggled because of COVID-19. Pursuing a retroactive BI proposal will artificially create winners and losers within the small business community. Any policy intended to protect businesses from the economic harm of a future pandemic should be focused on the future.

Conclusion

PIA believes a public-private partnership is the best way to protect businesses from the economic harm of a future pandemic. Independent insurance agents prefer to work within the framework of insurance; for that reason, we favor a policy that will provide an insurance solution to this problem. PIA and its members look forward to continuing to work with policymakers on this important issue.