

Draft: 11/12/20

Innovation and Technology (EX) Task Force
Virtual Meeting
November 4, 2020

The Innovation and Technology (EX) Task Force met Nov. 4, 2020. The following Task Force members participated: Jon Godfread, Chair, and Chris Aufenthie (ND); Elizabeth Kelleher Dwyer, Vice Chair (RI); Lori K. Wing-Heier and Chris Murray (AK); Alan McClain represented by Jimmy Harris (AR); Evan G. Daniels, Tom Zuppan and Erin Klug (AZ); Ricardo Lara represented by Lucy Jabourian (CA); Andrew N. Mais and George Bradner (CT); Trinidad Navarro represented by Tim Li and Leslie Ledogar (DE); David Altmaier, Rebecca Smid and Mike Yaworsky (FL); Colin M. Hayashida and Kathleen Nakasone (HI); Doug Ommen represented by Travis Grassel (IA); Dean L. Cameron and Weston Trexler (ID); Robert H. Muriel (IL); Stephen W. Robertson represented by Amy Beard and Karl Knable (IN); Vicki Schmidt, LeAnn Crow and Tate Flott (KS); Sharon P. Clark and DJ Wasson (KY); James J. Donelon represented by Richard Piazza (LA); Gary Anderson and Rachel M. Davison (MA); Kathleen A. Birrane represented by Jay Coon (MD); Eric A. Cioppa and Benjamin Yardley (ME); Anita G. Fox represented by Chad Arnold (MI); Grace Arnold and Phil Vigliaturo (MN); Chlora Lindley-Myers and Cynthia Amann (MO); Mike Chaney represented by Andy Case (MS); Mike Causey represented by Kathy Shortt (NC); Bruce R. Ramge (NE); Chris Nicolopoulos represented by Emily Doherty (NH); Marlene Caride represented by Randall Currier (NJ); Barbara D. Richardson (NV); Tynesia Dorsey, Amanda Baird and Lori Barron (OH); Andrew R. Stolfi represented by Aeron Teverbaugh (OR); Jessica K. Altman, Michael Humphreys, Michael McKenney and Shannen Logue (PA); Raymond G. Farmer represented by Michael Wise (SC); Larry D. Deiter (SD); Hodgen Mainda represented by David Combs and Rachel Jade-Rice (TN); Texas represented by Michael Nored and Marianne Baker (TX); Scott A. White represented by Vicki Ayers (VA); Michael S. Pieciak represented by Emily Brown (VT); Mike Kreidler represented by Molly Nollette (WA); James A. Dodrill represented by Erin K. Hunter and Joylynn Fix (WV); and Mark Afable and Nathan Houdek (WI).

1. Adopted its Oct. 15 Minutes

Director Dieter made a motion, seconded by Director Cameron, to adopt the Task Force's Oct. 15 minutes (Attachment A). Commissioner Godfread asked if there was any discussion. Mr. Currier said the reference to Carl Sornson (NJ) related to the anti-rebating draft model law amendments should have referenced him, and he suggested this amendment to the minutes. Hearing no other discussion, Director Dieter and Director Cameron said they would accept that amendment to their motions. The motion passed unanimously.

2. Adopted its 2021 Proposed Charges

Commissioner Godfread reviewed the proposed charges for 2021 (Attachment B). First, he said the Task Force will continue its work to provide forums, resources and materials for the discussion of innovation and technology developments in the insurance sector. He said the Task Force has consistently, from the beginning, sought to encourage and even clear the way for innovation, made possible through advances in technology and data and computing capabilities that benefit consumers and just make sense from an operational efficiency perspective. He said that work will continue in 2021, but the Task Force will also take some time to focus on the impact COVID-19 has had on this area, what has been learned, and what can be taken away from that experience.

Second, Commissioner Godfread said the addition of the words "and coordinate the development of" in 1B is to make clear that workstreams will likely be assigned to various subject matter expert (SME) committees, as has been the case with other letter committee working groups working on related workstreams like the Casualty Actuarial and Statistical (C) Task Force, the Accelerated Underwriting (A) Working Group, and the Privacy Protections (D) Working Group. He said where there is a group with specific expertise in a particular area, that will continue to be the case; but for the benefit of all stakeholders and to ensure appropriate coordination, the charges anticipate the Task Force playing a coordinating role in that regard.

Commissioner Godfread said the charge to monitor regulatory issues related to autonomous vehicles is no longer present, as the Property and Casualty Insurance (C) Committee will be monitoring that since the insurance regulatory issues look to be focused on the evolution of the auto insurance product. He also said the National Highway Traffic Safety Administration (NHTSA) will likely be the primary regulatory authority involved in this space regarding issues related to artificial intelligence (AI) and technology.

Commissioner Godfread said the Task Force will continue to play a coordinating role regarding cybersecurity workstreams; and with the combining of the Big Data (EX) Working Group and the Artificial Intelligence (EX) Working Group, there will be a focus on “next steps” now that the AI Principles have been adopted. He reviewed the reasons for combining the two groups and creating efficiency in accomplishing their objectives.

Commissioner Godfread said the Speed to Market (EX) Working Group has a new charge specific to the System for Electronic Rate and Form Filing (SERFF) modernization project since this group has subject matter expertise related to SERFF.

Commissioner Godfread said one comment letter related to the charges was received from the American Property Casualty Insurance Association (APCIA), and he asked if someone would like to speak to those suggested changes. Angela Gleason (APCIA) said the APCIA’s comment is related to the new Big Data and Artificial Intelligence (EX) Working Group’s first proposed charge. She said the APCIA suggests adding some flexibility for the Working Group. She said the APCIA appreciates and respects that the Working Group’s intent is to focus on governance, but it suggests changing the second sentence to read, “[p]resent and recommend next steps, if any, to the Innovation and Technology (EX) Task Force, which may include model governance for the use of big data and AI for the insurance industry.” She said the intent is to provide flexibility, alleviating any undue pressure to be focused on one solution.

Ms. Jabourian asked for clarification regarding whether the Big Data and Artificial Intelligence (EX) Working Group charges are limited to just the property and casualty line of business. Commissioner Godfread said the Big Data (EX) Working Group has focused on property and casualty in the past, but there is no limiting factor to just that line of business going forward with the Big Data and Artificial Intelligence (EX) Working Group. He asked if there are other comments. He said he would accept the APCIA suggested revision as a friendly amendment, as it provides some flexibility without limiting what the Working Group can do. Superintendent Dwyer moved adoption of the proposed charges with the APCIA suggested amendment.

Commissioner Mais said he recently reviewed a comment from the University of Connecticut suggesting a review of how criminal records are used in underwriting and fraud detection. Superintendent Dwyer withdrew her motion to provide an opportunity for discussion of Commissioner Mais’ comment. Commissioner Godfread said he does not believe anything in the proposed charges would prevent the Working Group from looking at that issue. Superintendent Dwyer said she believes it could be considered as part of the charges as drafted. Commissioner Mais agreed. Superintendent Dwyer said this should be documented as a note for the Working Group, as it moves forward with carrying out its charges. Commissioner Godfread said this topic will not get coverage yet this year and into 2021.

Superintendent Dwyer made a motion, seconded by Commissioner Richardson, to move adoption of the proposed charges with the APCIA amendments. The motion passed unanimously.

3. Discussed the Oct. 30 Anti-Rebating Draft Model Law Amendments and Outstanding Issues

Superintendent Dwyer reviewed the most recent proposed language dated Oct. 30 (Attachment C). She said the word “specified” is in subsection H(1) of the model, so it was changed back to that for consistency purposes. She said the words “primarily intended” were discussed in detail, and the decision was to go with “primarily designed.” She said the American Council of Life Insurers (ACLI) sent a comment indicating that subsection H(2)(e)(ii)VI should be amended for clarity, but the drafting team was not sure it needed to be. She said this can be revisited if needed. She said subsection H(2)(e)(vi) was rewritten by Mr. Bradner and Mr. Aufenthie based on previous comments, and that language is included in the Oct. 30 draft. She said the intention is to accommodate states wishing to get a filing and those that do not wish to get a formal filing related to a pilot or testing program. She said the drafting team thought this language would address the issue, but if any stakeholder disagrees, they should send a specific written comment as to why they do not.

Superintendent Dwyer said there were comments stating that subsection H(2)(f)(i) is confusing. She said the drafting team considered the revised language suggested by the Texas Insurance Department, and it thought it was better and provided more clarity, so that was included in the last draft. She said the drafting note in that subsection section was moved to after all three subsections as opposed to just after subsection H(2)(f)(i), and it added the same language in the last sentence of subsections H(2)(f)(i) and H(2)(f)(iii) to subsection H(2)(f)(ii) for consistency.

Superintendent Dwyer said on the last call of the Task Force on Oct. 15, she reviewed the suggested changes in comment letters that the drafting team chose not to include in the most recent draft. She said if those commenters wish to provide more specifics related to their suggested language, they may do so. She said there was a suggestion to define terms, but given that this is a

subsection of a bigger piece of legislation, it was unclear as to how that would work, and the drafting team is not sure it is critical enough to do that.

a. Discussed Next Steps for Completing the Development of Amended Model Law Language

Superintendent Dwyer said comments from the ACLI have been posted. She said they had been reviewed by the drafting team, and it thought the statements are contemplated in the current language; but if there is disagreement on that, she invites advice. She said the drafting team would go back and look at the financial wellness language in subsection H(2)(e)(ii) VI again, as suggested by the ACLI, before this is final. She said comments should be submitted by Nov. 18, and the drafting team will work to quickly get another draft posted prior to the Task Force's meeting at the Fall National Meeting on Dec. 4 with the hope that it can be voted on for adoption.

4. Discussed Other Matters

Commissioner Godfreed said there were some unforeseen issues with the surplus lines data related to the Cybersecurity Supplemental Data Report slowing its completion, but it should be released soon. He also reminded interested parties to submit their responses to the Request for Information, asking for information related to specific "regulatory relief" or "regulatory accommodations" offered by states as a result of the COVID-19 pandemic, that they would recommend be continued or made permanent related to innovation and technology. He said that information will be compiled and summarized for discussion by the Task Force during the Fall National Meeting.

Having no further business, the Innovation and Technology (EX) Task Force adjourned.

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