

AMERICAN ACADEMY OF ACTUARIES

P/C PUBLIC POLICY OVERVIEW

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About the American Academy of Actuaries

The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy and its boards also set qualification, practice, and other professionalism and ethical standards for actuaries credentialed by one or more of the five U.S.-based actuarial organizations in the United States.



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Public Policy and the Academy

The Academy, through its public policy work, seeks to address pressing issues that require or would benefit from the application of sound actuarial principles. The Academy provides unbiased actuarial expertise and advice to public policy decision makers and stakeholders at the state, federal, and international levels in all areas of actuarial practice.



2020-21 Property/Casualty Issues



Business Interruption



Predictive Models



Climate



Cyber



Race and Insurance



Wildfire Risk



Flood



Workers' Comp



Financial Reporting



Business Interruption

COVID-19 Weighs Heavily on Small Business
Federal, State, Insurance Industry Responses



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COVID-19—Business Interruption (BI)

Pandemic has moved BI coverage to the forefront for small business and property and casualty insurance carriers

- Business owners indicated expectation that they had coverage for COVID-19 closures
- However, insurance industry, following SARS (2003), updated contract language due to recognition of the potential scope of exposure to pandemic virus
- Litigation activity has resulted
- Some federal and state legislators, early in the pandemic, sought to advance legislation to provide coverage with an early focus on mandating retroactive coverage
- Ongoing focus on legislation at the federal level to make coverage available for future pandemic events



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COVID-19—Business Interruption (BI)

Coverage issues

- Widely quoted that less than 40% of small business actually purchased traditional BI coverage
- As previously noted, the insurance industry made changes to coverage wording and exclusions
 - In many cases, there is a direct virus exclusion
 - Further, the policy wording generally requires that there is direct physical loss from an insured peril



COVID-19—Business Interruption (BI)

Many policyholders have filed suit challenging coverage denials

- Still early in the process
- Insurance industry generally has won early rounds/cases, but small businesses are having some success
- Variation in state laws and precedents is cited as a factor that will influence court decisions (“Covid-19 Cover Pendulum to Swing,” *Business Insurance*, October 2020)



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COVID-19—Business Interruption (BI)

Early legislative focus

- U.S. Congress, 2020, H.R. 6494—aimed at expanding BI coverage to cover pandemic/virus related closures
- Legislators in some states (LA, MA, NJ, NY, OH, PA) proposed legislation to make coverage retroactive
- In March, the National Association of Insurance Commissioners (NAIC) issued a statement warning against making coverage retroactive
- American Property Casualty Insurance Association has estimated closure losses for businesses with less than 100 employees to range between \$255 billion and \$431 billion per month, estimate grows when larger businesses are included



COVID-19—Business Interruption (BI)

Current legislative focus

- Aimed at prospective coverage, not retroactive
- Pandemic Risk Insurance Act (PRIA) introduced as H.R. 7011 in the last Congress
- Multiple proposals from industry stakeholders
 - Business Continuity Protection Program (BCPP)
 - Chubb
 - Zurich
- All have some form of industry/government partnership



COVID-19—Business Interruption (BI)

Pandemic Risk Reinsurance Act, PRIA (H.R. 7011)

- Bill sponsored by Representative Maloney from New York
- Participating private insurers would offer BI for pandemics
 - Participation voluntary
- Federal backstop
 - Aggregate \$750 billion cap
 - Insurer participation via risk sharing (deductible, layers); servicing
- Academy has provided comments on three separate occasions
 - Numerous technical issues to be considered



COVID-19—Business Interruption (BI)

Industry Proposals

- BCPP—no industry risk sharing, servicing partnership
- Chubb proposal
 - Split treatment for small business vs. medium and large
 - Establish Pandemic Re, government reinsurer
 - Risk sharing structures for government and private insurers
- Zurich proposal
 - Would establish three government-supported risk pools
 - Insurer places risk in one of three pools based on desired cede percentage (100%, 95%, 90%)



COVID-19—Business Interruption (BI)

- What's Next?
 - At the state level, all proposals for retroactive coverage failed to advance during 2019 sessions
 - At the federal level, hearing in the House of Representatives in November indicated a high level of interest in some sort of federal program to provide prospective BI coverage for pandemic virus. Expect continued interest in the new Congress.



Pandemic Risk Insurance Act of 2020

In December, the Academy submitted written comments to the U.S. House Financial Services Committee regarding proposed legislation (H.R. 7011) to provide federal government backing for coverage of future pandemic events under business interruption insurance.



Workers' Compensation

COVID-19 Impact on WC

Presumption of Benefits



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Presumptive Benefits

In June 2020, the Academy's Workers' Compensation Committee released an issue brief, *Presumptive Benefits in Workers' Compensation: Emerging Issues Before and After COVID-19.*

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Issue Brief

Presumptive Benefits in Workers' Compensation

Emerging Issues Before and After COVID-19

JUNE 2020

Key Points

- Although the specific eligible occupational diseases vary by state, most state workers' compensation laws make it clear that "ordinary diseases of life" (i.e., to which the general public is equally exposed) are not compensable.
- However, many states also have workers' compensation "presumption" laws pertaining to certain occupational diseases and specific employment exposures. Presumption laws have been applied primarily to certain employees of local public entities such as first responders—firefighters, police officers, and emergency medical technicians—as well as to certain state and federal employees.
- Workers' compensation presumption laws, by making it easier to qualify for the benefits, may serve to shift costs from other benefit systems (e.g., health insurance, pensions, Social Security Disability Insurance, Medicare, etc.).
- In recent months, many state governments either issued executive orders or proposed and enacted legislation that pertains to presumptive coverage of COVID-19-related claims, expanding not only the illnesses but also experienced during employment, but also to whom the presumptions apply.
- COVID-19 and emerging trends in presumption raise some important questions for actuaries and other stakeholders.

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Background

What does workers' compensation presumption mean?

In order to receive workers' compensation ("WC") benefits, an injured worker must demonstrate that his/her injury (regardless of fault) arose out of and in the course of employment. This is relatively easy to prove for most injuries, but for cumulative trauma or occupational disease cases, the "arose out of" test may be more difficult. Although the specific eligible occupational diseases vary by state, most state laws make it clear that: a) "ordinary diseases of life" (i.e., to which the general public is equally exposed) are not compensable; b) WC claims must be supported by medical evidence; and c) the disease must be attributed to work.

However, many states also have workers' compensation "presumption" laws pertaining to certain occupational diseases and specific employment exposures. The purpose of presumption laws is to supplant the "arose out of" test and shift the burden of proof onto the employers for certain types of diseases and/or certain types of claimants. Presumption laws have been applied primarily to certain employees of local public entities (e.g., cities, counties, schools, water/fire districts, etc.), such as first responders—firefighters, police officers, and emergency medical technicians—as well as to certain state and federal employees. In some limited cases, such as was the case with the 9/11 catastrophe, they may also apply to private-sector workers and volunteers.



WC—Additional Areas of Interest

The Academy's WC committee has ongoing discussions and research:

- The impact of telehealth on WC
- The impact of the pandemic on pressure points that could impact opioid usage
- Monitoring the changes from COVID-19 impacts throughout the WC system



Climate

Actuaries Climate Index (ACI) and Actuaries Climate Risk Index (ACRI)



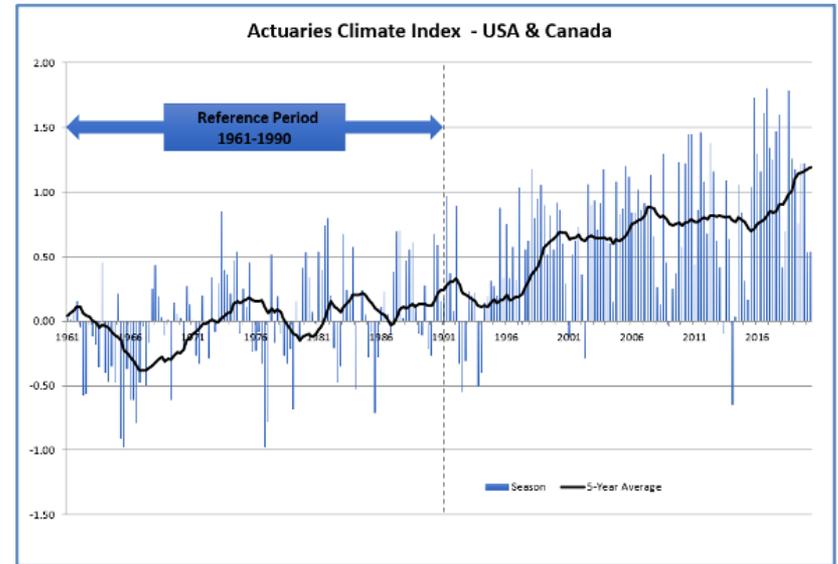
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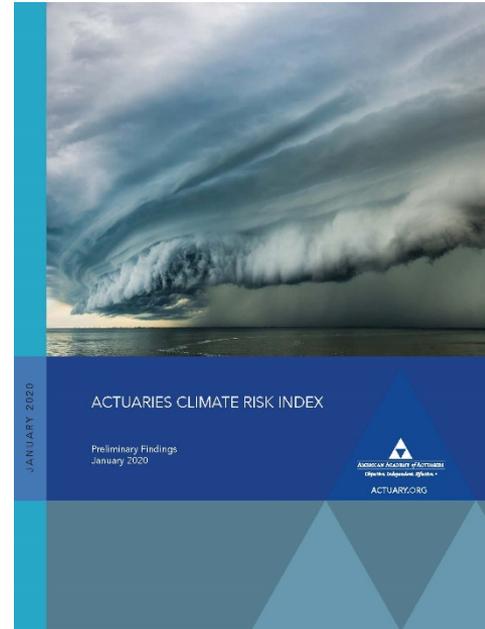
Actuaries Climate Index

The index, actuariesclimateindex.org, sponsored by the Academy, the Canadian Institute of Actuaries, the Casualty Actuarial Society, and the Society of Actuaries—is designed to provide actuaries, public policymakers, and the general public with objective data about changes in the frequency of extreme climate conditions over recent decades.



Actuaries Climate Risk Index

In January 2020, the Academy introduced the first model and preliminary results of the Actuaries Climate Risk Index (ACRI).



Climate—Ongoing Efforts

The Academy's research team is pursuing:

- Model enhancements—ACI 2.0, ACRI 2.0
- Potential new data sources
- Ongoing collaboration with CAS, SOA, CIA



Climate–Biden Administration Actions

Climate is reemerging as a key agenda item

- White house fact sheet:

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/27/fact-sheet-president-biden-takes-executive-actions-to-tackle-the-climate-crisis-at-home-and-abroad-create-jobs-and-restore-scientific-integrity-across-federal-government/>



Climate–Biden Administration Actions

- Re-entered the Paris Climate Agreement
- Cancelled Keystone XL Pipeline
- Reinstated numerous climate regulations



Cyber

Rapidly Changing, Fluid Situation



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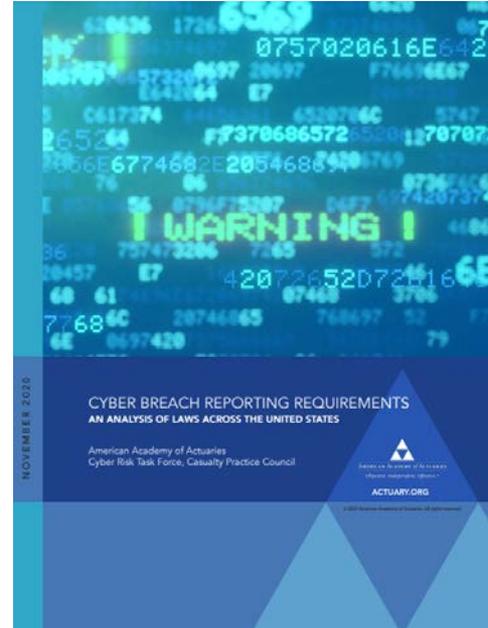
Terrorism Risk Insurance Act (TRIA)

In January, the Academy's Cyber Risk Task Force responded to the U.S. Treasury Department's questions about the applicability of TRIA in cases of cyberattacks that are aimed at targets outside the United States but cause insured losses in the United States.



Cyber Breach Reporting

In November, the Academy's Cyber Risk Task Force issued research: [Cyber Breach Reporting Requirements: An Analysis of Laws Across the United States](#)



Ongoing Cyber Activity

The Academy's task force is developing a set of articles discussing key aspects of cyber:

- Introduction, Threat Landscape, Silent Cyber, Data, Accumulation, and Reinsurance
- Watch for these to be published soon



Ongoing Cyber Activity

The New York State Department of Financial Services recently issued [cyber insurance guidance](#) to P&C insurers:

- Advises insurers offering cyber coverage to develop strategy for measuring cyber insurance risk
- Recommended against making ransom payments



Race and Insurance



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NAIC

In November, Academy Casualty Vice President Lauren Cavanaugh addressed the NAIC's Special Committee on Race and Insurance, with comments on actuarial guidance, disparate impact, and data quality.



NCOIL

In December, Academy volunteers presented at the National Council of Insurance Legislators (NCOIL) Annual Meeting during the Special Committee on Race in Insurance Underwriting's session.



Academy P/C Racial Equity Task Force

- Academy P/C initiatives on racial equity were presented at the Feb. 23 CASTF “Book Club.”
- The Casualty Practice Council has established a P/C Racial Equity Task Force. Its work is ongoing.



Wildfire Risk



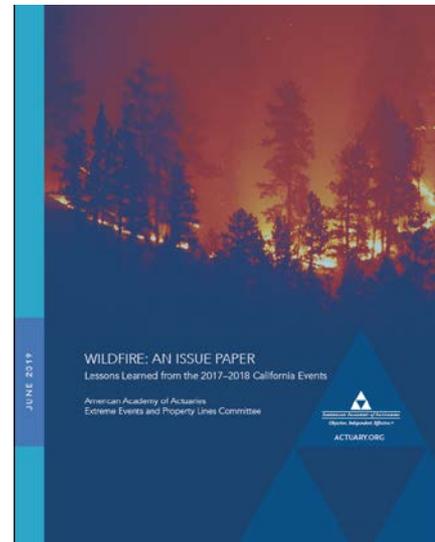
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Essential Elements

- ❑ In October, the Academy released a new *Essential Elements* paper: “Wildfire Risk in the United States.”
- ❑ In 2019 the Academy’s Extreme Events and Property Lines Committee released an [Issues Paper on Wildfire Lessons Learned](#) which it subsequently presented to the NAIC



Flood

National Flood Insurance Program (NFIP)



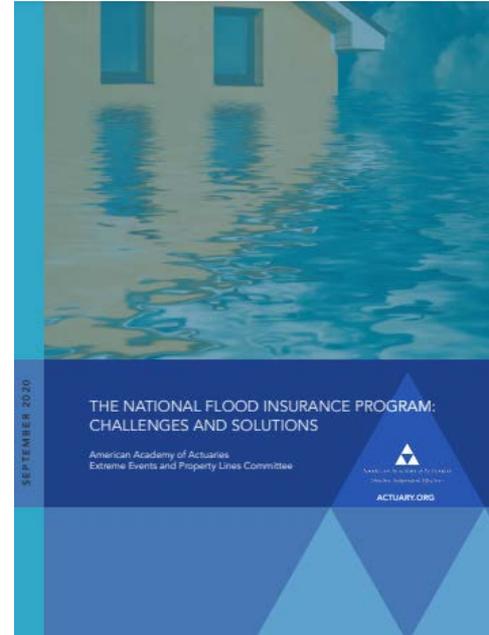
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National Flood Insurance Program

In September, the Extreme Events and Property Lines Committee [updated its monograph](#) on the NFIP and related issues, including new data from the 2019 hurricane season.



NFIP Reauthorization

Included in the 2020 continuing resolution that funded the federal government was a provision for a one-year extension of statutory authority for the NFIP. The legislation extends the NFIP, which was previously due to expire Sept. 30, 2020, through Sept. 30, 2021.



P/C Financial Reporting



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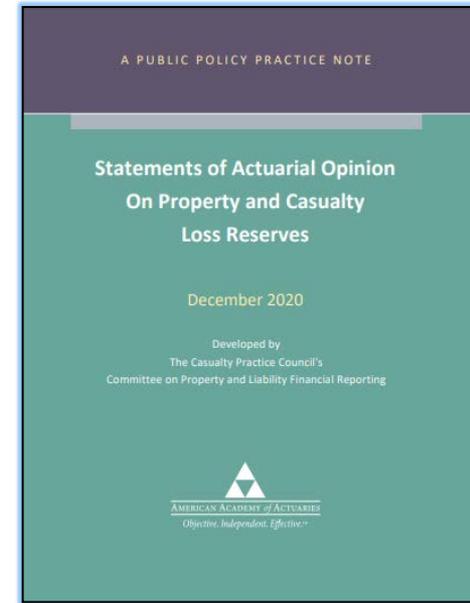
Resource for Audit Committees

In September, the Academy's Committee on Property and Liability Financial Reporting issued a new public policy paper, *An Overview for P/C Insurers' Audit Committees: Effective Use of Actuarial Loss Reserve Expertise.*



Annually Issued SAO Practice Note

Also in January, COPLFR released the practice note, *Statements of Actuarial Opinion on P/C Loss Reserves* (for 2020 SAOs).



Predictive Models

NAIC Casualty Actuarial and Statistical Task Force
(CASTF) White Paper on Predictive Models



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Regulatory Update—CASTF

- Best Practices in CASTF Regulatory Review of Predictive Models (RRPM) [white paper](#).
- CASTF has put in considerable time and effort into developing RRPM
 - Multiple exposure drafts with input from stakeholder groups
 - Dating back to Fall 2018
 - Academy offered comments on three separate occasions



RRPM—continued

Purpose: Regulators recognized that the industry was advancing in its use of predictive models in rate setting and other areas and that regulators were not keeping pace

- Provides guidance to regulators for review of filings that contain predictive models for auto and homeowner's insurance
- Emphasis on guidance
- Focuses on Generalized Linear Models (GLMs)
- Lengthy list of data elements is outlined in the paper



RRPM—continued

During the virtual NAIC Fall National Meeting, CASTF presented the RRPM white paper for adoption by the Property and Casualty Insurance (C) Committee

- Discussion ensued regarding reference to rational explanation of rating characteristics
- CASTF unresolved regarding “causation versus correlation,” looking for rational explanation of the selected rating characteristics
- C Committee adopted the RRPM
- Minutes of the C Committee can be found here:
https://content.naic.org/sortable_agenda/fall_agenda.htm



Academy Resources



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Thank You

Questions?

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