

Atlantic Corporate Center  
2317 Route 34, Suite 2B  
Manasquan, NJ 08726  
732-201-4133  
CHIEF EXECUTIVE OFFICER: Thomas B. Considine



PRESIDENT: Rep. Matt Lehman, IN  
VICE PRESIDENT: Asm. Ken Cooley, CA  
TREASURER: Asm. Kevin Cahill, NY  
SECRETARY: Rep. Joe Fischer, KY

IMMEDIATE PAST PRESIDENTS:  
Sen. Jason Rapert, AR  
Sen. Travis Holdman, IN

For Immediate Release  
February 22, 2021  
Contact: Tess Badenhausen  
(732) 201-4133

**NCOIL PROPERTY & CASUALTY INSURANCE COMMITTEE HOLDS VIRTUAL INTERIM MEETING: ADOPTED REVISED NCOIL COVID-19 LIMITED IMMUNITY MODEL ACT**

*Also Announced Intention to Amend NCOIL Peer-to-Peer Car Sharing Program Model Act at April Spring Meeting*

---

Manasquan, NJ – The National Council of Insurance Legislators (NCOIL) Property and Casualty Insurance Committee (Committee) held an interim virtual meeting on Friday, February 19. Kentucky Representative Bart Rowland chairs the Committee and North Carolina Senator Vickie Sawyer serves as vice chair. The Committee discussed state actions relating to COVID-19 business immunity statutes, and adopted the NCOIL COVID-19 Limited Immunity Model Act (Model), sponsored by Rep. Rowland and Indiana Representative Matt Lehman, NCOIL President. The Model will be considered by the NCOIL Executive Committee for final adoption at the NCOIL Spring Meeting in April.

Rep. Rowland said, “I want to thank everyone who participated in the interim meeting. We had a great initial discussion on these issues in December at the NCOIL Annual Meeting, which included a number of speakers with differing views. That discussion enabled us to digest all the feedback on the initial draft of the Model and move forward with adoption of the Model during this interim meeting. I am pleased we were able to adopt the Model as so many states, including my home state of Kentucky, are now considering legislation concerning this issue.”

Rep. Lehman said, “Rep. Rowland led a great discussion on these issues in Tampa at our Annual Meeting, and again during this virtual interim meeting. As co-sponsor of the Model, I agreed with Rep. Rowland’s goal of working to get this Model adopted in advance of the Spring Meeting so that states considering the issue could be provided helpful guidance. I certainly didn’t expect to be discussing an issue like this when I began my term as NCOIL President, but here we are. Businesses, individuals, and insurers are looking for help when it comes to reopening and getting back to a sense of normal.”



/NCOILorg

WEBSITE: [www.ncoil.org](http://www.ncoil.org)



/NCOILorg

**Sound Public Policy In 50 States For 50 Years**

There were over 100 participants registered for the interim virtual meeting which included 34 legislators from 17 states. In addition to the robust dialogue from legislators, NCOIL heard perspectives on these issues from a wide array of interested parties at both the December and interim meetings including: Rebecca Dixon, Executive Director at the National Employment Law Project; Professor David Vladeck, A.B. Chettle, Jr. Professor of Law at the Georgetown University Law Center; the National Association of Mutual Insurance Companies (NAMIC); the American Property Casualty Insurance Association (APCIA); the Independent Insurance Agents & Brokers of America (IIABA); and the National Association of Professional Insurance Agents (PIA)

NCOIL CEO, Commissioner Tom Considine stated, “This Model allows us to be proactive by developing Model Legislation to offer assistance to states as they adapt during these challenging times. We developed the Model being mindful that a blanket level of immunity should not be provided but rather a presumption of protection should be provided for businesses and individuals that act in a reasonable manner and abide by certain health and safety measures in order to remove from businesses during this time of crisis the specter of frivolous lawsuits when the businesses have complied with all CDC guidance.” Considine continued, “We had great leadership guiding this Model from Rep. Rowland and Rep. Lehman, and I am confident that states will find it useful when developing their own legislation.”

Additionally, Rep. Rowland announced his intention to introduce and sponsor amendments to the NCOIL Peer-to-Peer Car Sharing Program Model Act at the NCOIL Spring Meeting in April. The Model, also sponsored by Rep. Rowland and adopted by NCOIL in December of 2019, has been introduced and adopted by several states. The amendments are related to definitions, insurance, and recordkeeping and serve to enhance the original Model by promoting an innovative, consumer-centric peer-to-peer car sharing marketplace in every state. The amendments will appear in the 30-day materials for the Spring Meeting next month.

The video recording from the meeting will be posted on the NCOIL website soon and can be viewed [here](#).

All material discussed during the meeting can be viewed [here](#).

A copy of the NCOIL COVID-19 Limited Immunity Model Act adopted by the Committee appears below:

National Council of Insurance Legislators (NCOIL)

COVID-19 Limited Immunity Model Act

***\*Sponsored by Rep. Bart Rowland (KY)***

***\*Co-Sponsored by Rep. Matt Lehman (IN)***

***\*Adopted by the Property & Casualty Insurance Committee on February 19, 2021.***

***\*To be considered for adoption by the NCOIL Executive Committee on April 18, 2021.***

Section 1. Title

This Act shall be known and may be cited as the “[State] COVID-19 Limited Immunity Act.”

Section 2. Definitions

(A) “Arising from COVID-19” means an injury or harm caused by or resulting from:

- (1) the actual, alleged, or possible exposure to or contraction of COVID-19; or
- (2) services, treatment, or other actions performed, not performed, or delayed in response to COVID-19.
- (3) The term “arising from COVID-19” includes:
  - (a) the implementation of policies and procedures to prevent or minimize the spread of COVID-19;
  - (b) testing;
  - (c) monitoring, collecting, reporting, tracking, tracing, disclosing, or investigating COVID-19 exposure or other COVID-19 related information;
  - (d) using, designing, manufacturing, providing, donating, or servicing precautionary, diagnostic, collection, or other health equipment or supplies, including personal protective equipment;
  - (e) closing or partially closing to prevent or minimize the spread of COVID-19;

(f) delaying or modifying the schedule or performance of any medical procedure;  
and

(g) providing services or products in response to government appeal of repurposing operations to address an urgent need for personal protective equipment, sanitation products, or other products necessary to protect the public.

(B) "COVID-19" refers to any of the following:

(1) The novel coronavirus known as SARS-CoV-2;

(2) Any mutation of SARS-CoV-2;

(3) The coronavirus disease 2019.

(C) "Person" means any entity recognized in this state and shall include but not be limited to an individual, corporation, limited liability company, partnership, trust, association, church or religious organization, city, county, public or private school district, college, university or other institution of higher education, or other unit of local government.

### Section 3. Limited Immunity from Liability

(A) Notwithstanding any other statute to the contrary, any person who acts in good faith in the course of or through the performance or provision of the person's business operations or on the premises owned or operated by the person shall be immune from civil liability for ordinary negligence for any personal injury or death arising from COVID-19, if the person acts as an ordinary, reasonable, and prudent person would have acted under the same or similar circumstances. For purposes of this subsection, ordinary, reasonable, and prudent shall include the adoption of safety measures as set forth in subsection (B) of this Section.

(B) Notwithstanding any other statute to the contrary, there shall be a rebuttable presumption that the safety measures adopted by any person, as defined in Section 2(C) of this Act, are reasonable, as used in subsection (A) of this Section, if those measures conform to the Centers for Disease Control and Prevention guidelines in existence at the time of the alleged exposure. For purposes of this Section, the rebuttable presumption does not alter the applicable standard of care for medical, legal, or other negligence cases.

(C) Immunity as described in this section shall not apply to acts or omissions that constitute an intentional tort or willful or reckless misconduct as defined in [State Tort Code].

(D) Nothing in this Act shall be construed to modify the application of [State] worker's compensation laws.

(E) The immunity provided in this section is in addition to any other immunity protection that may apply in state or federal law.

Section 4. Effective Date

An emergency existing therefor, which emergency is hereby declared to exist, this Act shall be in full force and effect on and after its passage and approval.

Section 5. Sunset Date

The provisions of Section 3 of this Act shall be null, void, and of no force and effect on and after [      ].

*NCOIL is a national legislative organization with the nation's 50 states as members, represented principally by legislators serving on their states' insurance and financial institutions committees. NCOIL writes Model Laws in insurance and financial services, works to preserve the State jurisdiction over insurance as established by the McCarran-Ferguson Act seventy-six years ago, and to serve as an educational forum for public policymakers and interested parties. Founded in 1969, NCOIL works to assert the prerogative of legislators in making State policy when it comes to insurance and educate State legislators on current and longstanding insurance issues.*