
ALLEGHENY CASUALTY
INTERNATIONAL FIDELITY
ASSOCIATED BOND

Date: March 31, 2020
To: South Carolina Department of Commerce
From: James Portman, Senior Vice President, Chief Legal Officer - AIA
RE: Request for Clarification of Essential Businesses

Please accept this email as a request for clarification that bail surety in South Carolina is exempted from the Governor's Executive Order, 2020-17.

First, many other states and counties in the country have exempted the insurance industry, which includes surety bail insurers, from shelter in place or stay at home orders based upon the fundamental and essential business and services provided.

Surety bail, written through licensed and appointed insurance bail agents, is an integral component of an essential governmental function; that is, the proper functioning of the criminal justice system, including jail and court operations.

Bail is set by the judiciary to permit the pre-trial release of accused criminal defendants pending trial as required under the U.S. and South Carolina Constitutions. Bail is part of this critical governmental infrastructure and has been recognized by federal, state and county governments and agencies as exempted from shelter in place/stay at home Orders.

Second, bail is a surety line of insurance, recognized as such by the South Carolina Department of Insurance. Bail agents are insurance agents/producers.

The U.S. Department of Homeland Security recognizes the insurance industry as an essential industry under the CISA guidelines (attached) (MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE).

Again, federal, state and local governments across the country have relied upon CISA for the definition of essential service and business excluded from shelter in place/stay at home Orders.

Citing the attached CISA Memorandum:

"As the Nation comes together to slow the spread of COVID-19, on March 16th, the President issued updated Coronavirus Guidance for America. This guidance states that:

'If you work in a critical infrastructure industry, as defined by the Department of Homeland Security, such as healthcare services and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule.'"

The Memorandum goes on to define “Financial Services,” of which insurance is a subset, as critical infrastructure for our country:

“Workers who are needed to process and maintain systems for processing financial transactions and services (e.g., payment, clearing, and settlement; wholesale funding; **insurance services**; and capital markets activities).

Workers who are needed to provide consumer access to banking and lending services, including ATMs, and to move currency and payments (e.g., armored cash carriers). **Workers who support financial operations**, such as those staffing data and security operations centers.”

We are sure the Department of Commerce is well aware of the Orders of other states and counties, including California, which define “critical infrastructure sectors” to include the “Financial Services Sector,” which includes “Insurance.”

Bail surety insurers and licensed, appointed bail agent producers fall within this exempted sector, which South Carolina should also recognize.

Failure to do so will result in irreparable damage to South Carolina criminal justice system and to South Carolina citizens who have been only accused of crimes and for whom bail has been sent but would otherwise be unable to secure their bail release from pre-trial detention.

This is especially important given the danger of incarceration with COVID 19.

As with other surety companies licensed and doing business in South Carolina, International Fidelity Insurance Company and Allegheny Casualty Company are covered by these important exemptions to the Governor’s Executive Order.

Thank you for your consideration.

Please contact the undersigned should you have any questions.

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