

Effect of Illinois Shelter-in-Place Order on the Insurance Industry

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A FREEBORN & PETERS LLP CLIENT ALERT



ABOUT THIS CLIENT ALERT

In response to the growing number of COVID-19 cases in Illinois, Governor J.B. Pritzker followed in the steps of New York and California and announced a state-wide shelter-in-place order for all Illinois citizens and businesses on March 20, 2020. This Alert details what the order means for the insurance industry.

In response to the spread of COVID-19 throughout the State of Illinois, Governor J.B. Pritzker announced a state-wide “shelter-in-place order” (the “order”) for all Illinois businesses on March 20, 2020. Since then, businesses across the State of Illinois have been scrambling to determine its impact on their operations and activities. Under the order, only “Essential Businesses and Operations” may remain open and operating, except to the extent that the non-Essential Businesses and Operations may be performed remotely or constitute “Minimum Basic Operations.”

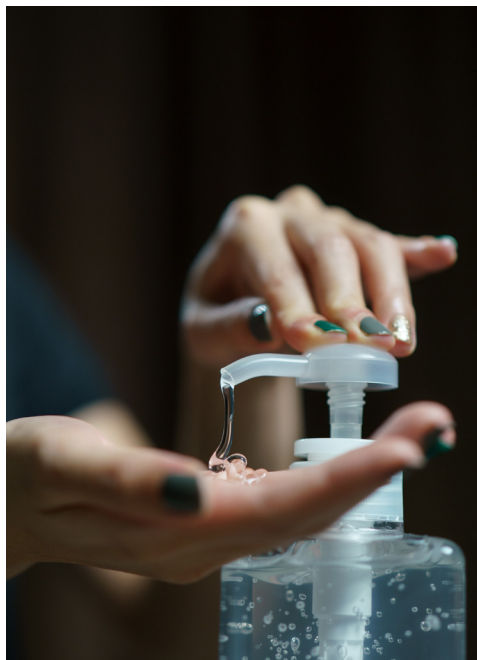
Given the importance of the insurance industry both to households and to businesses across the state, an immediate question is how this order impacts insurance companies, insurance brokers, insurance service firms, and insurance buyers? Fortunately, most insurance companies, brokers, and service firms can accomplish most of their business functions remotely via emails and on-line platforms. Certain other critical functions, however, including inspections, appraisals, and certain claims adjusting functions, will require physical presence. How does the order affect those functions?

As defined in the order, “Essential Businesses and Operations” include a broad and far-reaching list of industries and businesses, including healthcare, public health operations, human service operations, essential infrastructure, and essential governmental functions.

Despite the importance of the insurance industry to the economy and the day-to-day lives of citizens across the State of Illinois, the order does not explicitly categorize insurance services as an Essential Business and Operation. Nevertheless, as noted below, Freeborn attorneys believe that the insurance industry constitutes an Essential Business under the “Other Businesses” category contained in the order.

In addition to the articulated industries noted above, the order provides for a broad catch-all category of “Other Businesses,” which includes “financial institutions” and “professional services.” The definition of “financial institutions” is unfortunately fairly narrow, focusing on banks and financial markets. This category does include appraisal services, but it is not clear if this part of the order was meant to include insurance appraisals or just property appraisals for lending purposes.

However, the order also permits businesses engaged in “professional services” to remain open, and the definition of “professional services” specifically includes “insurance services.” While the term “insurance services” is not defined, we think that this two-word phrase should be interpreted broadly so as to apply to any insurance company, insurance broker, and insurance adjuster, appraiser, and inspector.



We feel confident that the order intended to broadly construe “insurance services” to constitute Essential Businesses since, without insurance, the economy truly would shut down. Moreover, insurance is necessary for all of the other Essential Businesses and Operations to function. Companies, whether or not they are considered “essential” under the order, need to maintain workers’ compensation insurance as mandated by law, provide health and life insurance for their employees, and buy and maintain property and casualty insurance on their property and operations. Similarly, households need to be able to buy, amend, and maintain health insurance, auto liability and physical damage insurance, and homeowners’ insurance.

Separately, even those Illinois businesses that are not deemed Essential Businesses are still able to engage in Minimum Basic Operations, which includes doing the minimum activities necessary to maintain the value of the businesses’ property and inventory. While the order could have provided better clarification on what constitutes Minimum Basic Operations, we believe this allows insurance buyers to do the minimum activities necessary to buy, renew, and revise insurance that protects the buyers’ employees, property, employees, and business.

While the insurance industry can, in our view, continue to operate, the order does require businesses that remain open to comply with certain social distancing requirements.

This would require a company to:

- (i) post signs telling employees to keep at least six feet from each other and to wash their hands;
- (ii) have hand sanitizers available for employees;
- (iii) have separate operating hours for elderly employees; and
- (iv) post online whether the business’s facility is open and how customers may reach it by phone (this last requirement appears aimed at businesses that have customers who visit their facilities).

If you have any questions concerning the order and its effect on your operations, please feel free to contact us. We are working and available to you during this unprecedented time.
Visit [Freeborn’s COVID-19 webpage](#) for more information as this situation develops.

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