

## NHSCA Monthly Update

Thanks to all who were on the call, Thursday, March 3, 2016 at 2:30 PM CST.

**HBW 2-10:** Lindsay Iten

**Fidelity:** Billy Jensen

**HMS National/Cross Country:** Doug Stein

**ORHP:** Lorna Mello, Gwen Gallagher

**HWA/Direct Energy:** Meghan Boyle

**HomeGuard:** Robert Hessling

**OneGuard:** David Hill

**AHS:** Tom Courtney

A quorum was present.

**NHSCA:** Art Chartrand

**THSCA:** David Parker, Lobbyist

**CHSCA:** Mike Belote, Lobbyist

### **Brief Highlights:**

#### **1. California**

CHSCA Lobbyist Mike Belote advised that Assembly Bill 493 (Medina), opposed by NHSAC, officially died on January 31, 2016 and will not be enacted this year. The bill would have prohibited licensed home protection companies to assess a service charge on a consumer where no repair was actually performed. Defeat of AB 493 represents a victory for NHSCA.

For 2016, the bill introduction deadline passed on February 19. All 2400 new bills have been read and evaluated for potential interest to NHSCA. A number of bills were introduced relating to electronic commerce in insurance, which has been very controversial in the California legislature in the past. One or more of the bills, if enacted, could provide options for California licensed home protection companies.

#### **2. Sewer and Water Line Provider Direct Contacts: Stein & Bartosch**

No report was provided. Stein indicated he had no contact as of yet.

### **3. VA HB 304**

Chartrand stated he had advised all members via email that no reports were due in March. The bill was signed by the governor and all forms as well as GAAP, audited financial statement are now due June 1.

### **4. Texas Sales Tax**

Lobbyist Dave Parker advise that he had received some slightly encouraging news from the Texas Comptroller's office stating that their drafted memo on taxation of home service contracts is "currently on its way in the approval process". While that office's representative Tommy Hoyt could not commit to a timeline for completion, he appeared receptive to Parker's request that the language be socialized with our industry before being finalized. Additionally, a fundraiser for Comptroller Hegar hosted by Parker's consulting firm in Austin allowed another opportunity to casually mention the industry's anticipation on an overdue resolution from staff. The Comptroller and his Chief-of-Staff agreed to monitor its progress.

### **5. Louisiana Data Reporting**

LHSCA Lobbyist Duane Cowart reports that Secretary of State (SOS) supports our bill to remove all March 1 data reporting. Our bill is pending final mark up. Cowart is now attempting to get interim bulletin or notice from SOS members need not file anything in March 1 pending the bill action. Some may have filed it already. If you have not, a simple letter requesting more time to file would likely suffice. The SOS has indicated they have no interest in the data. Chartrand will keep members advised.

### **6. Florida Tax Offset Bill**

No action in legislature.

### **7. Uniform Personal Property Definition Model Law**

Given the issues in WA and TX, as well as experience in other states, there is no uniform definition of personal property. States define all over the place depending upon the area of the law. It was suggested we develop our own in context of home warranty/home service contracts and use it for reference and promotion. Chartrand indicated this would require nominal resourcing and will hopefully prepare a draft by next months call. He noted the language might have some mixed reaction among members once in writing and the impacts considered. Upon minor discussion, there was a consensus to draft a model for consideration.

## **8. CA DOI and Contract Language Scrutiny**

Jensen noted a recent case where the CA DOI was carefully scrutinizing contract language and perhaps exceeding authority over contract interpretation. The case was perhaps unfortunate and unique on its facts but raised the issue to be cautious. Chartrand indicated his read was the DOI will be inclined to interfere if it senses any reliance upon subjective, consumer sophistication or presumed knowledge as a basis for declination. He suggested contract language be clarified or tightened to rely upon objective standards as much as feasible. If denial is on basis of a pre-existing condition, document the file, stand on that declination and not attempt to over explain with non-provable, parole evidence. Jensen noted that a marginal claim might need to be paid on occasion if clear facts are not fully documented and communicated by the book. However, they intended to hold a line on DOI involvement in contract claim management. Gallagher concurred with the issue and approach.

## **9. NC Sales Tax Issue**

This issue had been raised and briefed to leadership by Mark Celichowski of AHS. Celichowski was not available to brief the members, but the case appeared to be made that substantial questions exist over interpretation of a new release called "SALE OR RENEWAL OF A SERVICE CONTRACT FOR TANGIBLE PERSONAL PROPERTY CHANGES " (See Notice dated February 2, 2016 at : [http://www.dorn.nc.com/taxes/sales/impnotice020216\\_servicecontract.pdf](http://www.dorn.nc.com/taxes/sales/impnotice020216_servicecontract.pdf)) The noted concern is the Department may be trying to open sales tax up to our contracts, even if the plain language of the actual statute would not allow such. No vote was taken, but there was a consensus to pursue the issue and have Chartrand begin overtures with the NC DOR to resolve.

## **6. National Meeting June 9-10, 2016, Marblehead, MA**

Please finalize your reservations now. Plan to bring family and stay the weekend. NHSCA will sponsor a fun outing as per tradition after the meeting on Friday.

## **The call adjourned at 3:05 pm**

The next FIRST Thursday of the month call will be April 7 at 2:30 PM CST.