

Restatement of the Law-Liability Insurance Debate Now Shifts to Its Impact

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Eight years and 29 drafts later, the American Law Institute (ALI) voted on May 22, to approve its "Restatement of the Law-Liability Insurance" (Restatement or RLLI). The final version has 50 sections and is almost 500 pages long. The project has been heavily criticized along the way, with lawmakers, insurers, policyholders and regulators all voicing concerns, including that it reflects the reporters' aspirational views of what the law should be. This criticism is hardly surprising given that "Restatements are primarily addressed to courts" and meant to "reflect the law as it presently stands or might appropriately be stated by a court." Now that the Restatement has been approved, the debate has shifted to the role that it may play in courts' future decision-making as a nonbinding document.

Greg LoCasale and John Anooshian highlight several potentially troublesome provisions for insurers relating to the defense and settlement of claims and "bad faith," and consider the Restatement's potential impact going forward in Restatement of the Law-Liability Insurance Debate Now Shifts to Its Impact.

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