STATE OF NEW YORK

5396

2021-2022 Regular Sessions

IN ASSEMBLY

February 16, 2021

Introduced by M. of A. CUSICK, LUPARDO -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the state finance law, in relation to establishing the temporary hospitality and business relief fund; and to amend the insurance law, in relation to creating a credit for certain hospitality businesses affected by the COVID-19 pandemic; and providing for the repeal of certain provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The insurance law is amended by adding a new article 76-A to read as follows:

ARTICLE 76-A

TEMPORARY HOSPITALITY AND BUSINESS RELIEF FUND

Section 7650. Temporary hospitality and business relief fund.

7650-a. Hospitality and business advisory council.

§ 7650. Temporary hospitality and business relief fund. (a) For the duration of the state disaster emergency declared pursuant to executive order two hundred two of two thousand twenty, to secure our state from the spread of COVID-19, there is hereby established a temporary hospitality and business relief fund to provide for access to resources and grants to those entities participating in broad form coverage issued pursuant to subsection (g) of section five thousand four hundred two of this chapter, that have been affected by business interruption resulting in loss or damage incurred by an official order to close pursuant to executive order two hundred two of two thousand twenty.

(b) The department of financial services shall establish the temporary fund of up to one hundred million dollars appropriated through a surcharge on all general certificate of liability insurance policies underwritten within the state.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD08872-01-1

(c) The joint underwriting association shall establish rules and procedures for dissemination of the monies of the fund to businesses and organizations affected by the closure of their business.

§ 7650-a. Hospitality and business advisory council. (a) To provide the association with advice and assistance with the operations of the temporary hospitality and business relief fund, an advisory council shall be established, consisting of nine members appointed as follows: three members shall be appointed by the governor, two members shall be appointed by the temporary president of the senate, two members shall be appointed by the speaker of the assembly, one member shall be appointed by the minority leader of the senate, and one member shall be appointed by the minority leader of the assembly. The superintendent, or his or her designee, also may participate as an ex-officio member. Each member of such advisory council shall serve at the pleasure of the official who appointed such member.

(b) The association shall administer the temporary hospitality and business relief fund. The association may, subject to approval of the superintendent, adopt reasonable eligibility standards for participation in the temporary hospitality and business relief fund.

(c) The advisory council shall provide recommendations to the association for consideration by the board of directors. The board of directors shall promptly advise the superintendent, in writing, of any recommendations received from the advisory council.

§ 2. The state finance law is amended by adding a new section 99-ii to read as follows:

§ 99-ii. Temporary hospitality and business relief fund. 1. There is hereby established in the joint custody of the comptroller and the superintendent of financial services a fund to be known as the temporary hospitality and business relief fund.

2. Such fund shall consist of moneys made available pursuant to the provisions of article seventy-six-A of the insurance law and all other monies credited or transferred thereto from any other fund or source pursuant to law.

3. Moneys of such fund shall be expended only to provide for access to resources and grants to those entities participating in broad form coverage issued pursuant to subsection (g) of section five thousand four hundred two of the insurance law, and those who have been affected by business interruption resulting in loss or damage, which was incurred by an official order to close pursuant to executive order two hundred two of two thousand twenty. Nothing in this section shall prevent the state from soliciting and receiving grants, gifts or bequests for the purposes of such fund and depositing them into the fund according to law.

§ 3. The insurance law is amended by adding a new section 3114 to read as follows:

§ 3114. Temporary hospitality and business relief credit. (a) In this section, "covered period" means March seventh, two thousand twenty until the date on which none of the provisions that closed or otherwise restricted public or private businesses or places of public accommodation, or required postponement or cancellation of all non-essential gatherings of individuals of any size for any reason in executive orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13 or 202.14, as extended by executive orders 202.28 and 202.31 and as further extended by any future executive order, issued in response to the COVID-19 pandemic continue to apply.

(b) For the duration of the covered period, businesses shall receive a credit of up to seventy-five percent of the total amount paid by such business for a certificate of general liability insurance policy issued during the covered period if such business has closed or shut down its operations due to any executive order issued during such covered period. The credit shall be applied to any subsequent certificate of general liability policy underwritten following the end of the covered period.

§ 4. Subsections (c), (d) and (g) of section 5402 of the insurance law, subsections (c) and (d) as amended by chapter 136 of the laws of 2008 and subsection (g) as amended by chapter 70 of the laws of 2019, are amended to read as follows:

(c) The association shall, pursuant to the provisions of this article and the plan of operation and with respect to fire insurance, extended coverage, broad form coverage issued pursuant to subsection (g) of this section, coverage for additional perils, including business interruption insurance resulting in loss or damage incurred by an official order to close pursuant to a public emergency, and homeowners insurance should the same be made available through the association in accordance with a determination of necessity made by the superintendent pursuant to section five thousand four hundred twelve of this article on insurable property, have the power on behalf of its members:

(i) to cause policies of insurance to be issued to applicants;

(ii) to assume reinsurance from its members; and

(iii) to cede reinsurance.

(d) The association shall adhere to a plan of operation, consistent with the provisions of this article, approved by the superintendent after consultation with affected individuals and organizations. The plan shall provide for economical, fair and non-discriminatory administration and prompt and efficient provision of fire, extended coverage, broad form coverage pursuant to subsection (g) of this section, including business interruption insurance resulting in loss or damage incurred by an official order to close pursuant to a public emergency, and homeowners insurance, when a determination of necessity is made by the superintendent pursuant to section five thousand four hundred twelve of this article to promote orderly community development. It shall contain other matters including, but not limited to, provision for necessary facilities; management of the association; assessment of members to defray losses and expenses; commission arrangements; reasonable and objective underwriting standards; acceptance and cession of reinsurance and procedures for determining amounts of insurance to be provided by the association. The amounts shall not be in excess of one million five hundred thousand dollars for the insurable real property or the tangible personal property thereon.

(g) In addition to fire insurance, extended coverage, coverage for additional perils, including business interruption insurance resulting in loss or damage incurred by an official order to close pursuant to a public emergency, and homeowners insurance should the same be made available through the association in accordance with a determination of necessity pursuant to section five thousand four hundred twelve of this article, the association may offer broad form coverage to applicants seeking to insure real property at fixed locations of this state, or the tangible personal property located thereon. The association may offer broad form coverage for a period of fifteen years beginning on June thirtieth, two thousand eight. On or before October first, two thousand seventeen the superintendent shall require the association to report to him or her as to the number of policies written pursuant to this subsection and paragraph three of subsection (f) of section five thousand four hundred five of this article, and any other information the superintendent may require. On or before January first, two thousand eighteen, the superintendent shall report to the governor and the legislature regarding the number of policies issued pursuant to this section and such paragraph and shall include recommendations as to the continuation of such insurance offerings.

§ 5. This act shall take effect immediately, provided, however, that the provisions of sections one and two of this act shall expire 3 years after such effective date when upon such date the provisions of such sections shall be deemed repealed; and provided further that the provisions of section three of this act shall be deemed to have been in full force and effect on and after March 7, 2020 and shall apply to insurance policies in force on that date.