

# STATE OF NEW YORK

8211

## IN SENATE

April 17, 2020

Introduced by Sens. GOUNARDES, MAYER -- read twice and ordered printed,  
and when printed to be committed to the Committee on Insurance

AN ACT in relation to requiring certain perils be covered under business  
interruption insurance during the coronavirus disease 2019 (COVID-19)  
pandemic

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

1 Section 1. (a) Notwithstanding any provisions of law, rule or regu-  
2 lation to the contrary, every policy of insurance insuring against loss  
3 or damage to property, which includes, but is not limited to, the loss  
4 of use and occupancy and business interruption, shall be construed to  
5 include among the covered perils under that policy, coverage for busi-  
6 ness interruption during a period of a declared state emergency due to  
7 the coronavirus disease 2019 (COVID-19) pandemic.

8 (b) Every policy of insurance insuring against loss or damage to prop-  
9 erty, which includes, but is not limited to, the loss of use and occu-  
10 pancy and business interruption, whose policy expires during a period of  
11 a declared state emergency due to the coronavirus disease 2019 (COVID-  
12 19) pandemic, shall be subject to an automatic renewal of the policy at  
13 the current rate of charge.

14 (c) Any clause or provision of a policy of insurance insuring against  
15 loss or damage to property, which includes, but is not limited to, the  
16 loss of use and occupancy and business interruption, which allows the  
17 insurer to deny coverage based on a virus, bacterium, or other microor-  
18 ganism that causes disease, illness, or physical distress or that is  
19 capable of causing disease illness, or physical distress shall be null  
20 and void; provided, however, the remaining clauses and provisions of the  
21 contract shall remain in effect for the duration of the contract term.

22 (d) The coverage required by this section shall indemnify the insured,  
23 subject to the limits under the policy, for any loss of business or  
24 business interruption for the duration of a period of a declared state  
25 emergency due to the coronavirus disease 2019 (COVID-19) pandemic.

26 (e) This section shall apply to policies issued to insureds with less  
27 than 250 eligible employees in force on the effective date of this act.

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

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1 "Eligible employee" means a full-time employee who works a normal work  
2 week of 25 or more hours.

3 § 2. (a) An insurer which indemnifies an insured who has filed a claim  
4 pursuant to section one of this act may apply to the superintendent of  
5 financial services for relief and reimbursement by the department from  
6 funds collected and made available for this purpose as provided in  
7 section three of this act.

8 (b) The superintendent of financial services shall establish proce-  
9 dures for the submission and qualification of claims by insurers which  
10 are eligible for reimbursement pursuant to this act. The superintendent  
11 of financial services shall incorporate in these procedures such stand-  
12 ards as are necessary to protect against the submission of fraudulent  
13 claims by insureds, and appropriate safeguards for insurers to employ in  
14 the review and payment of such claims.

15 § 3. (a) The superintendent of financial services is authorized to  
16 impose upon, distribute among, and collect from the companies engaged in  
17 business pursuant to the insurance law, such additional amounts as may  
18 be necessary to recover the amounts paid to insurers pursuant to section  
19 two of this act.

20 (b) The additional special purpose apportionment authorized pursuant  
21 to subdivision (a) of this section shall be distributed in the propor-  
22 tion that the net written premiums received by each company subject to  
23 the apportionment authorized by this section for insurance written or  
24 renewed on risks in this state during the calendar year immediately  
25 preceding, bears to the sum total of all such net written premiums  
26 received by all companies writing that insurance or coverage within the  
27 state during that calendar year, as reported.

28 (c) For the purposes of this section, "net written premiums received"  
29 means gross direct premiums written, less return premiums thereon and  
30 dividends credited or paid to policyholders, as reported on the compa-  
31 ny's annual financial statement.

32 § 4. This act shall take effect immediately, and shall be deemed to  
33 have been in full force and effect on and after March 7, 2020 and shall  
34 apply to insurance policies in force on that date.