STATE OF NEW YORK

10226--A

IN ASSEMBLY

March 27, 2020

Introduced by M. of A. CARROLL, FAHY, GRIFFIN, SIMOTAS, EPSTEIN, LENTOL, M. G. MILLER, PHEFFER AMATO, WRIGHT, DINOWITZ, ORTIZ, THIELE, CUSICK, BARRETT, COLTON, MALLIOTAKIS, MAGNARELLI, FALL -- Multi-Sponsored by -- M. of A. ENGLEBRIGHT -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 Assembly, do enact as follows:

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

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

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

(d) The coverage required by this section shall indemnify the insured, subject to the limits under the policy, for any loss of business or

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

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business interruption for the duration of a period of a declared state emergency due to the coronavirus disease 2019 (COVID-19) pandemic.

(e) This section shall apply to policies issued to insureds with less than 250 eligible employees in force on the effective date of this act. "Eligible employee" means a full-time employee who works a normal work week of 25 or more hours.

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

(b) The superintendent of financial services shall establish procedures for the submission and qualification of claims by insurers which are eligible for reimbursement pursuant to this act. The superintendent of financial services shall incorporate in these procedures such standards as are necessary to protect against the submission of fraudulent claims by insureds, and appropriate safeguards for insurers to employ in the review and payment of such claims.

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

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

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

§ 4. This act shall take effect immediately, and 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.