

# STATE OF NEW YORK

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41

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

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

AN ACT to direct the department of financial services to study and report upon the adequacy and affordability of business interruption insurance coverage for pandemics, viruses and other public health emergencies; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. The legislature hereby finds that significant economic  
2 liabilities surrounding quarantines and shutdowns associated with the  
3 COVID-19 outbreak have sparked debate as to the exact terms, overall  
4 costs and general adequacy of business interruption insurance policies  
5 related to coverage for pandemics, viruses and other infectious  
6 diseases. The tremendous financial impact upon the business community  
7 due to the ongoing public health crisis highlights the need to examine  
8 the current status and sufficiency of business interruption insurance  
9 coverage related to this health epidemic and potentially other wide-  
10 spread events in the future.

11 § 2. The superintendent of financial services shall review and report  
12 on the adequacy, reasonableness and affordability of business inter-  
13 ruption insurance coverage as it relates to losses resulting from  
14 pandemics, viruses and other infectious diseases. Such report shall  
15 include but not be limited to:

16 (a) the present state of the marketplace regarding pandemic-related  
17 insurance coverage for business interruption policies;

18 (b) prevailing reasons for the denial of insurance coverage for busi-  
19 ness interruption policies related to pandemics, viruses, infectious  
20 diseases and other common exclusions;

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

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1 (c) the general appropriateness, significance and credibility of  
2 rating variables used to determine premiums and the cost of risks  
3 covered by business interruption insurance policies;

4 (d) the experience of states and jurisdictions as far as business  
5 interruption insurance coverage for pandemic-related events;

6 (e) the experience of states and jurisdictions as far as the projected  
7 costs, implications and concerns associated with mandating retroactive  
8 business interruption insurance coverage;

9 (f) analysis as to the necessity and role of federal intervention to  
10 ensure business interruption insurance coverage for pandemic-related  
11 events, including proposed legislation;

12 (g) the overall immediate and long-term costs to both insurers and  
13 insureds regarding business interruption insurance coverage for pandem-  
14 ic-related events, including the potential need for any public subsi-  
15 dies;

16 (h) the financial impacts and other concerns associated with removing  
17 the typical physical damage requirement traditionally found in business  
18 interruption insurance policies;

19 (i) an examination as to the financial impacts to the property and  
20 casualty insurance marketplace related to business interruption insur-  
21 ance coverage for pandemic-related events;

22 (j) the extent to which exclusions and uninsurable events are appro-  
23 priately and unambiguously disclosed to policyholders; and

24 (k) recommendations to promote reasonable, adequate and cost-effective  
25 coverage for businesses to secure and for the insurance marketplace to  
26 offer business interruption insurance policies that cover pandemic-re-  
27 lated events.

28 § 3. Within one hundred eighty days of the effective date of this act,  
29 the superintendent of financial services shall submit such report to the  
30 governor, temporary president of the senate, and speaker of the assem-  
31 bly.

32 § 4. This act shall take effect immediately and shall be repealed 60  
33 days after the submission of the report pursuant to section three of  
34 this act.