STATE OF NEW YORK

498

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. CARROLL, DINOWITZ, GOTTFRIED, SEAWRIGHT, THIELE, ANDERSON, PHEFFER AMATO, SIMON -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring business interruption insurance to cover disease outbreaks

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 section 346 to read as follows:

§ 346. Business interruption insurance; disease outbreak. (a) For the purposes of this section:

(1) "business" shall mean a business registered with the department of tax and finance or not-for-profit corporation registered with the attorney general's charities bureau.

(2) "eligible employee" shall mean a full-time employee who works a normal work week of twenty-five or more hours.

(3) "income" shall mean traditional business income as well as not-for-profit revenue from donations, sponsorships, and grants.

(4) "net written premiums received" shall mean gross direct premiums written, less return premiums thereon and dividends credited or paid to policyholders, as reported on the company's annual financial statement.

(5) "premium taxes" shall mean payments required under subsection (d) of section two thousand one hundred eighteen of this chapter.

(b) (1) Notwithstanding any provisions of law, rule or regulation to the contrary, every 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 and contingent 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

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

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disease, illness, or physical distress shall be null and void as against public policy; provided, however, the remaining clauses and provisions of the contract shall remain in effect for the duration of the contract term.

(2) The coverage required by this subsection shall indemnify the insured, subject to the limits under the policy, for any loss of business or business interruption and contingent business interruption.

(3) This subsection shall apply to policies issued to insureds with less than two hundred fifty eligible employees.

(c)(1) An insurer, including excess lines insurers, which indemnifies an insured who has filed a claim pursuant to subsection (b) of this section may apply to the superintendent for relief and reimbursement by the department from funds collected and made available for this purpose as provided in subsection (d) of this section.

(2) The superintendent shall establish procedures for the submission and qualification of claims by insurers which are eligible for reimbursement pursuant to this section. The superintendent 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.

(d)(1) The superintendent is authorized to impose upon, distribute among, and collect from the companies, including excess lines insurers, engaged in business pursuant to this chapter, such additional amounts as may be necessary to recover the amounts paid to insurers pursuant to subsection (c) of this section.

(2) The additional special purpose apportionment authorized pursuant to paragraph one of this subsection shall be distributed in the proportion that the net written premiums, or premium taxes in the case of excess lines insurers, 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, or premium taxes in the case of excess lines insurers, received by all companies writing that insurance or coverage within the state during that calendar year, as reported.

§ 2. This act shall take effect immediately and shall apply to all business interruption insurance claims filed by an insured and all policies or contracts issued, renewed, modified, altered or amended on and after such effective date.