

# STATE OF NEW YORK

18

2023-2024 Regular Sessions

## IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sens. GOUNARDES, MYRIE -- read twice and ordered printed,  
and when printed to be committed 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 Assem-  
bly, do enact as follows:

1 Section 1. The insurance law is amended by adding a new section 346  
2 to read as follows:

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

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

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

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

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

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

17 (b) (1) Notwithstanding any provisions of law, rule or regulation to  
18 the contrary, every clause or provision of a policy of insurance insur-  
19 ing against loss or damage to property, which includes, but is not  
20 limited to, the loss of use and occupancy and business interruption and  
21 contingent business interruption, which allows the insurer to deny  
22 coverage based on a virus, bacterium, or other microorganism that causes  
23 disease, illness, or physical distress or that is capable of causing  
24 disease, illness, or physical distress shall be null and void as against

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

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1 public policy; provided, however, the remaining clauses and provisions  
2 of the contract shall remain in effect for the duration of the contract  
3 term.

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

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

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

14 (2) The superintendent shall establish procedures for the submission  
15 and qualification of claims by insurers which are eligible for  
16 reimbursement pursuant to this section. The superintendent shall incor-  
17 porate in these procedures such standards as are necessary to protect  
18 against the submission of fraudulent claims by insureds, and appropriate  
19 safeguards for insurers to employ in the review and payment of such  
20 claims.

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

26 (2) The additional special purpose apportionment authorized pursuant  
27 to paragraph one of this subsection shall be distributed in the propor-  
28 tion that the net written premiums, or premium taxes in the case of  
29 excess lines insurers, received by each company subject to the appor-  
30 tionment authorized by this section for insurance written or renewed on  
31 risks in this state during the calendar year immediately preceding,  
32 bears to the sum total of all such net written premiums, or premium  
33 taxes in the case of excess lines insurers, received by all companies  
34 writing that insurance or coverage within the state during that calendar  
35 year, as reported.

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