

# ASSEMBLY, No. 3844

## STATE OF NEW JERSEY

### 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

**Sponsored by:**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Assemblywoman ANNETTE CHAPARRO**

**District 33 (Hudson)**

**Co-Sponsored by:**

**Assemblywomen Reynolds-Jackson, McKnight, Lopez, Assemblymen**

**Wimberly, Mazzeo, Chiaravalloti, Assemblywoman Jasey, Assemblyman**

**Mejia, Assemblywomen Jimenez, Swain and Assemblyman Zwicker**

**SYNOPSIS**

Concerns business interruption insurance during coronavirus disease 2019 state of emergency.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning certain covered perils under business  
2 interruption insurance and supplementing Title 17 of the Revised  
3 Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. a. Notwithstanding the provisions of any other law, rule or  
9 regulation to the contrary, every policy of insurance insuring  
10 against loss or damage to property, which includes the loss of use  
11 and occupancy and business interruption in force in this State on the  
12 effective date of this act, shall be construed to include among the  
13 covered perils under that policy, coverage for business interruption  
14 due to global virus transmission or pandemic, as provided in the  
15 Public Health Emergency and State of Emergency declared by the  
16 Governor in Executive Order 103 of 2020 concerning the  
17 coronavirus disease 2019 pandemic.

18 b. The coverage required by this section shall indemnify the  
19 insured, subject to the limits under the policy, for any loss of  
20 business or business interruption for the duration of that declared  
21 State of Emergency.

22 c. This section shall apply to policies issued to insureds with  
23 less than 100 eligible employees, in the State of New Jersey, and in  
24 force on the effective date of this act. "Eligible employee" means a  
25 full-time employee who works a normal work week of 25 or more  
26 hours.

27  
28 2. a. An insurer which indemnifies an insured who has filed a  
29 claim pursuant to section 1 of this act may apply to the  
30 Commissioner of Banking and Insurance for relief and  
31 reimbursement by the commissioner from funds collected and made  
32 available for this purpose as provided in section 3 of this act.

33 b. The commissioner shall establish procedures for the  
34 submission and qualification of claims by insurers which are  
35 eligible for reimbursement pursuant to this section. The  
36 commissioner shall incorporate in these procedures such standards  
37 as are necessary to protect against the submission of fraudulent  
38 claims by insureds, and appropriate safeguards for insurers to  
39 employ in the review and payment of such claims.

40  
41 3. a. In addition to the special purpose apportionment made  
42 pursuant to section 2 of P.L. 1995, c.156 (C.17:1C-20), the  
43 Commissioner of Banking and Insurance is authorized to impose  
44 upon, distribute among, and collect from the companies engaged in  
45 business pursuant to subtitle 3 of Title 17 of the Revised Statutes,  
46 such additional amounts as may be necessary to recover the  
47 amounts paid to insurers pursuant to section 2 of this act.

1 b. The additional special purpose apportionment authorized  
2 pursuant to subsection a. of this section shall be distributed in the  
3 proportion that the net written premiums received by each company  
4 subject to the apportionment authorized by this section for  
5 insurance written or renewed on risks in this State during the  
6 calendar year immediately preceding, bears to the sum total of all  
7 such net written premiums received by all companies writing that  
8 insurance or coverage within the State during that calendar year, as  
9 reported. The commissioner shall adopt the same procedures and  
10 calculations as are provided in section 2 of P.L.1995, c.156  
11 (C.17:1C-20) as appropriate to calculate the additional special  
12 purpose apportionment authorized by this section.

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

17  
18 4. This act shall take effect immediately, shall be retroactive to  
19 March 9, 2020 and shall apply to insurance policies described in  
20 section 1 of this act and in force on that date.

21  
22  
23 STATEMENT  
24

25 This bill provides a mechanism by which certain businesses that  
26 suffer losses due to interruption as a result of the coronavirus  
27 disease 2019 pandemic may recover those losses from their insurer  
28 if they had a policy of business interruption insurance in force on  
29 March 9, 2020, the date on which the Governor declared a Public  
30 Health Emergency and State of Emergency in Executive Order 103.  
31 The bill would apply to businesses covered by such a policy with  
32 less than 100 eligible employees in the State of New Jersey.  
33 "Eligible employee" is defined as a full-time employee who works a  
34 normal work week of 25 or more hours

35 The bill provides that every policy of insurance insuring against  
36 loss or damage to property, which includes the loss of use and  
37 occupancy and business interruption, in force on the date of the  
38 Executive Order, shall be construed to include among the covered  
39 perils under that policy coverage for business interruption due to  
40 global virus transmission or pandemic, as provided in the  
41 Governor's Executive Order. The coverage provided would be  
42 subject to the limits under the policy and would indemnify the  
43 insured for losses incurred during the State of Emergency.

44 The bill then provides that an insurer which indemnifies an  
45 insured who has filed a claim pursuant to its provisions may apply  
46 to the Commissioner of Banking and Insurance for relief and  
47 reimbursement from funds collected and made available for this  
48 purpose as provided in the bill, pursuant to an additional special

1 purpose assessment under the general scheme already established  
2 by law to recover the general expenses of the Department of  
3 Banking and Insurance as the regulator of the insurance industry in  
4 this State. The commissioner shall establish procedures for the  
5 submission and qualification of claims by insurers which are  
6 eligible for reimbursement, incorporating such standards as are  
7 necessary to protect against the submission of fraudulent claims by  
8 insureds, and appropriate safeguards for insurers to employ in the  
9 review and payment of such claims.

10 Finally, the bill authorizes the commissioner to impose upon,  
11 distribute among, and collect from insurance companies, other than  
12 life and health insurance companies, the additional amounts as may  
13 be necessary to recover the amounts paid pursuant to the bill. The  
14 additional special purpose apportionment authorized by the bill  
15 shall be distributed according to essentially the same procedures  
16 and calculations as are provided currently for the existing special  
17 purpose apportionment.

18 Industry sources have indicated that global virus transmission  
19 and pandemic are generally excluded from the list of covered perils  
20 under the existing standard business interruption insurance policy.  
21 The Insurance Services Office, ISO, has developed a rider to  
22 provide an insured with the option of purchasing such coverage, but  
23 to date, no states have yet approved the form. This bill, then, is  
24 intended to hold harmless a certain portion of the business sector,  
25 which had the foresight to purchase business interruption insurance,  
26 for losses sustained as a result of the current health emergency, but  
27 for which no such coverage is currently offered.