
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2759 Session of
2020

INTRODUCED BY DERMODY, ROZZI, SANCHEZ, ZABEL, KENYATTA, McNEILL,
KINSEY, GALLOWAY, WILLIAMS, T. DAVIS, YOUNGBLOOD, MADDEN,
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BRIGGS, SNYDER, SIMS, KRUEGER, DONATUCCI, HOHENSTEIN,
ISAACSON, GOODMAN, SAINATO, COMMITTA, MULLINS, SAPPEY,
FITZGERALD AND FIEDLER, AUGUST 7, 2020

REFERRED TO COMMITTEE ON INSURANCE, AUGUST 7, 2020

AN ACT

1 Regulating business interruption insurance during a state of
2 disaster emergency.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Business
7 Interruption Insurance Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Commissioner." The Insurance Commissioner of the
13 Commonwealth.

14 "COVID-19." The Coronavirus disease 2019, an infectious

1 disease caused by severe acute respiratory syndrome Coronavirus
2 2 that was first identified during December 2019 in Wuhan,
3 China.

4 "Eligible employee." A full-time employee who works a normal
5 work week of at least 25 hours.

6 "Insurance Company Law of 1921." The act of May 17, 1921
7 (P.L.682, No.284), known as The Insurance Company Law of 1921.

8 "Insurance policy." A policy, subscriber contract,
9 certificate or plan that:

- 10 (1) is offered, issued or renewed by an insurer;
11 (2) provides for property and casualty insurance; and
12 (3) does not exclusively provide for life insurance or
13 health insurance, or both.

14 "Insurer." As follows:

15 (1) An entity licensed or authorized to conduct the
16 business of insurance that is governed under the Insurance
17 Company Law of 1921.

18 (2) The term excludes a risk retention group under
19 Article XV of the Insurance Company Law of 1921.

20 "Net written premiums received." Gross direct premiums
21 written, less return premiums and dividends credited or paid to
22 policyholders, as reported on an insurer's annual financial
23 statement.

24 "Proclamation of disaster emergency." The proclamation of
25 disaster emergency issued by the Governor on March 6, 2020,
26 published at 50 Pa.B. 1644 (March 21, 2020), and any renewal of
27 the state of disaster emergency. The term includes any
28 proclamation of disaster emergency related to COVID-19.

29 Section 3. Business interruption during state of disaster
30 emergency.

1 (a) Business interruption.--Notwithstanding any other law or
2 court rulings, rule or regulation, an insurance policy that
3 insures against loss or damage to property, which includes the
4 loss of use and occupancy and business interruption, in force in
5 this Commonwealth on the date of a proclamation of disaster
6 emergency shall be construed to include among the covered perils
7 under the insurance policy coverage for business interruption
8 all losses as a result of the proclamation, including due to a
9 global virus transmission or pandemic. The coverage shall be
10 afforded not subject to any exclusions, including ones for virus
11 or pandemic, as long as the loss is the result of the natural
12 disaster causing the proclamation to be issued.

13 (b) Indemnification.--The coverage required by this section
14 shall indemnify the insured of an insurance policy, subject to
15 the broadest or greatest limit and lowest deductible afforded to
16 business interruption coverage under the insurance policy, for
17 any loss of business or business interruption for the duration
18 of the declaration of disaster emergency described in subsection
19 (a).

20 (c) Applicability.--This section shall apply to an insurance
21 policy that is:

22 (1) issued to an insured of an insurance policy if the
23 insured has fewer than 100 eligible employees in this
24 Commonwealth; and

25 (2) in force on the date of the proclamation of disaster
26 emergency.

27 Section 4. Relief and reimbursement.

28 (a) Application.--An insurer that indemnifies an insured of
29 an insurance policy that has filed a claim under section 3 may
30 apply to the commissioner for relief and reimbursement by the

1 commissioner from money collected and made available for this
2 purpose, as provided in section 5 or otherwise in accordance
3 with Federal or State law.

4 (b) Procedures.--The commissioner shall establish procedures
5 for the submission and qualification of claims by insurers that
6 are eligible for reimbursement under this section. The
7 commissioner shall incorporate into the procedures:

8 (1) standards that are necessary to protect against the
9 submission of fraudulent claims by insureds; and

10 (2) appropriate safeguards for insurers to use in the
11 review and payment of claims.

12 Section 5. Special purpose apportionments.

13 (a) Recovery.--The commissioner may impose upon, distribute
14 among and collect from insurers engaged in providing property
15 and casualty insurance in this Commonwealth, whether or not the
16 property and casualty insurance specifically includes coverage
17 for business interruptions, additional amounts necessary to
18 recover the amounts paid to insurers under section 4.

19 (b) Distribution.--The additional special purpose
20 apportionment authorized under subsection (a) shall be
21 distributed in the proportion that the net written premiums
22 received by each insurer subject to the apportionment under this
23 section for insurance written or renewed on risks in this
24 Commonwealth, during the immediately preceding calendar year,
25 bears to the sum total of all the net written premiums received
26 by all insurers writing that property and casualty insurance
27 within this Commonwealth during that same calendar year, as
28 reported.

29 Section 6. Effective date.

30 This act shall take effect immediately.