

ASSEMBLY, No. 458

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

SYNOPSIS

Requires that definition of occurrence in certain property damage liability insurance policies include coverage for faulty workmanship.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning commercial liability insurance and
2 supplementing chapter 29 of Title 17 of the Revised Statutes.

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

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7 1. As used in this act:

8 “Commercial liability insurance policy” means a contract of
9 insurance, issued by an admitted or surplus lines insurer to a
10 contractor or other construction professional, which pays for sums
11 that the insured becomes legally obligated to pay as damages for
12 occurrences of property damage and bodily injury.

13 “Contractor or other construction professional” means a person,
14 sole proprietorship, partnership, corporation, limited liability
15 company, or other recognized legal entity engaging in the
16 development, construction, installation, renovation or repair of
17 residential, commercial, or industrial property, buildings or other
18 structures, or improvements related thereto.

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20 2. A commercial liability insurance policy shall not be
21 delivered, issued, executed, or renewed in this State, on or after the
22 effective date of this act, unless the policy contains a definition of
23 occurrence that includes:

24 a. an accident, including continuous or repeated exposure to
25 substantially the same general harmful conditions; and

26 b. property damage or bodily injury resulting from faulty
27 workmanship.

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29 3. This act shall not be construed to restrict or limit the nature
30 or types of exclusions from coverage that an insurer includes in a
31 commercial liability insurance policy.

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33 4. This act shall take effect on the 90th day next following
34 enactment.

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STATEMENT

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39 This bill requires commercial liability insurance policies to
40 contain a definition of “occurrence” in order to provide more
41 certainty with respect to coverage for faulty workmanship.

42 This bill provides that a commercial liability insurance policy
43 shall not be delivered, issued, executed, or renewed in this State, on
44 or after the bill’s effective date, unless the policy contains a
45 definition of occurrence that includes: (1) an accident, including
46 continuous or repeated exposure to substantially the same general
47 harmful conditions; and (2) property damage or bodily injury
48 resulting from faulty workmanship.

1 Construction contracts typically require that the general
2 contractor and any subcontractors performing work on a project
3 secure commercial liability insurance that includes coverage for
4 both property damage and bodily injury caused by an occurrence.
5 Notwithstanding that this coverage is most often written on standard
6 form insurance policies, courts have varied in their holdings as to
7 whether damage from faulty workmanship is accidental in nature
8 and therefore within the definition of an occurrence, for which
9 coverage is provided. See, for example, Weedo v. Stone-E-Brick,
10 81 N.J.233 (1979), Fireman's Ins. Co. of Newark v. National Union
11 Fire Ins. Co., 387 N.J.Super.434 (App. Div. 2006), Pennsylvania
12 National Mutual Cas. Ins. Co. v. Parkshore Dev. Corp., 403 Fed.
13 Appx. 770 (3rd Cir.2010), and Greystone Construction v. National
14 Fire & Marine Insurance Company, 661 F.3d1272 (10th Cir.2011).

15 By providing a definition of occurrence that addresses both
16 accidents and faulty workmanship, the bill is intended to reduce
17 confusion in industry practices by resolving coverage issues arising
18 from the holdings in various court decisions.

19 The bill also provides that it is not intended to restrict or limit
20 the nature or types of exclusions from coverage that an insurer
21 includes in a commercial liability insurance policy.