

ASSEMBLY, No. 3180

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:

Assemblyman JON M. BRAMNICK

District 21 (Morris, Somerset and Union)

SYNOPSIS

Prohibits certain provisions in liability insurance policies.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning liability insurance and supplementing Title 17
2 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. a. Notwithstanding any other law or regulation to the
8 contrary, an insurer authorized to transact liability insurance in this
9 State shall not issue or renew a liability policy that includes any
10 provision that provides that the insurer will not be liable for any
11 loss for any claim based upon the fact that the loss or claim is
12 similar to any fact, circumstance, situation, transaction, event, or
13 wrongful act underlying or alleged in a separate, unrelated
14 proceeding or claim.

15 b. For the purposes of this section, “claim” means any demand
16 received by an insured seeking damages that results from any
17 incident, occurrence, or wrongful act or an insured’s notice to the
18 insurer of a specific act or omission that the insured reasonably
19 believes may result in a demand for damages.

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21 2. This act shall take effect immediately and shall apply to
22 policies of liability insurance issued or renewed on or after the
23 effective date of the act.

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STATEMENT

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28 This bill prohibits an insurer from including in a liability
29 insurance policy a provision that provides that the insurer will not
30 be liable for any loss for any claim based upon the fact that the loss
31 or claim is similar to any fact, circumstance, situation, transaction,
32 event, or wrongful act underlying or alleged in a separate
33 proceeding or claim.

34 Certain insurance policies include provisions that state that the
35 insurer will not be liable for any loss for any claim based upon or
36 arising out of any same or substantially same or similar fact,
37 circumstance, situation, transaction, event, wrongful act or related
38 wrongful act underlying or alleged in such demand, suit, or other
39 proceeding. In effect, such a provision allows the insurer to deny
40 coverage based on the mere fact that a similar, but unrelated, event
41 to the one being alleged in a claim may have occurred. For
42 example, a medical malpractice insurer could attempt to deny
43 coverage for an alleged claim of medical malpractice based upon a
44 similar occurrence in an unrelated case.

45 This bill is intended to prohibit such a provision, sometimes
46 referred to as an “interrelated wrongful act clause” or “prior and
47 pending proceeding clause,” in liability insurance policies as it

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- 1 relates to a similar fact, circumstance, situation, transaction, event,
- 2 or wrongful act underlying or alleged in a separate, unrelated
- 3 proceeding or claim.