

ASSEMBLY HOMELAND SECURITY AND STATE
PREPAREDNESS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3844

STATE OF NEW JERSEY

DATED: MARCH 16, 2020

The Assembly Homeland Security and State Preparedness Committee reports favorably Assembly Bill No. 3844.

Assembly Bill No. 3844 provides a mechanism by which certain businesses that suffer losses due to interruption as a result of the coronavirus disease 2019 pandemic may recover those losses from their insurer if they had a policy of business interruption insurance in force on March 9, 2020, the date on which the Governor declared a Public Health Emergency and State of Emergency in Executive Order 103. The bill would apply to businesses covered by such a policy with less than 100 eligible employees in the State of New Jersey. "Eligible employee" is defined as a full-time employee who works a normal work week of 25 or more hours.

The bill provides that every policy of insurance for loss or damage to property, which includes the loss of use and occupancy and business interruption, in force on the date of the executive order, shall be construed to include among the covered perils under that policy, coverage for business interruption due to global virus transmission or pandemic, as provided in the Governor's executive order. The coverage provided would be subject to the limits under the policy and would indemnify the insured for losses incurred during the State of Emergency.

The bill further provides that an insurer which indemnifies an insured who has filed a claim pursuant to its provisions may apply to the Commissioner of Banking and Insurance for relief and reimbursement from funds collected and made available for this purpose as provided in the bill, pursuant to an additional special purpose assessment under the general scheme already established by law to recover the general expenses of the Department of Banking and Insurance as the regulator of the insurance industry in this State. The commissioner is to establish procedures for the submission and qualification of claims by insurers which are eligible for reimbursement, incorporating such standards as are necessary to protect against the submission of fraudulent claims by insureds, and appropriate safeguards for insurers to employ in the review and payment of such claims.

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

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