ASSEMBLY, No. 4849

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED OCTOBER 19, 2020

Sponsored by:
Assemblyman GREGORY P. MCGUCKIN
District 10 (Ocean)
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District 10 (Ocean)

Co-Sponsored by:
Assemblymen Simonsen and McClellan

SYNOPSIS

Authorizes payment of just compensation to businesses for losses due to public health emergency closures.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 10/22/2020)

AN ACT concerning just compensation for businesses closed by public health emergency and supplementing Title 26 of the Revised Statutes.

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

1. a. An order declaring a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), that requires a business to partially or completely close shall be a public purpose for which the State may be compelled to exercise condemnation and pay just compensation.

b. An owner of a business that is ordered to partially or completely close under a public health emergency may bring an action to compel condemnation and the payment of just compensation for:

(1) loss of income during, and for a reasonable period of time after, a temporary partial or complete closure of the business that would not have occurred but for compliance with the order; or

(2) loss of going concern, including the loss of real property, if the closure of the business results in the owner going out of business and the owner proves the owner would not have gone out of business but for compliance with the order.

c. An owner shall have the burden of proving that the alleged loss is due to the public health emergency and the burden of proving the amount of compensation for losses.

d. An action to compel condemnation and the payment of just compensation brought under this section shall be filed within one year of the expiration of the order that declared or renewed the public health emergency.

2. This act shall take effect immediately and be applicable to a public health emergency declared on or after January 1, 2020.

STATEMENT

This bill provides that the closure of a business due to an order declaring a public health emergency is a public purpose for which the State may have to pay the business owner just compensation. Under the bill, the owner of a business may bring an action to compel the State to exercise condemnation and to pay just compensation for either:

- loss of income during, and for a reasonable time after, a temporary partial or complete closure of the business, if the business would not have closed but for compliance with the order; or

- loss of going concern, including the loss of real property, if the closure of the business results in the owner going out of business and the owner proves the owner would not have gone out of business but for compliance with the order.

The bill would assign to the business owner: the burden of proving that the alleged loss is due to the public health emergency; and the burden of proving the amount of compensation for losses.

The bill provides that it's provisions would apply to a public health emergency declared on or after January 1, 2020. An action to compel condemnation and the payment of just compensation brought under the bill must be filed within one year of the expiration of the order that declared or renewed the public health emergency.