

Pennsylvania Joins the Fray: Legislature Introduces Bill to Force Insurers to Pay for COVID-19-Related Business Interruption Losses

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On April 3, 2020, following in the footsteps of New Jersey, Ohio, New York, Massachusetts and Louisiana, Pennsylvania's legislature introduced House Bill 2372, "[a]n Act providing for insurance coverage for business interruption." This bill was introduced with 37 bipartisan sponsors and referred to the Pennsylvania House of Representatives Insurance Committee. If passed, the "Business Interruption Insurance Act" would take effect immediately.

Specifically, House Bill 2372 would require an insurer to cover and indemnify insureds suffering business interruption coverage due to the ongoing COVID-19 pandemic, "subject to the broadest or greatest limit and lowest deductible afforded to the business interruption coverage under the insurance policy." Like the neighboring New Jersey bill introduced previously, this Pennsylvania bill also allows any insurer which pays for such COVID-19-related losses to "apply to the [Pennsylvania] commissioner for relief and reimbursement by the commissioner from money collected and made available for this purpose . . ." The bill empowers the commissioner to establish eligibility procedures for the submission and qualification of reimbursement claims. Further, under the bill, the commissioner may then "impose upon, distribute among and collect from insurers . . . providing property and casualty insurance in [Pennsylvania] . . . additional amounts necessary to recover the reimbursement amounts paid to insurers.

The bill has some limitations. It only applies to holders of insurance policies with "fewer than 100 eligible[1] employees in [Pennsylvania]. Furthermore, the insured's policy had to be in force on March 6, 2020, "which is the date of the Proclamation of the Disaster Emergency due to the coronavirus pandemic . . ."

This bill, like the earlier New Jersey counterpart, is silent regarding any insurance policy which contains the ISO form "Exclusion for Loss Due To Virus Or Bacteria," or its equivalent. Therefore, this bill may force insurers to pay for losses which do not even constitute "direct physical loss or damage" to covered property and/or which should otherwise be excluded from coverage due to the presence of a policy's unambiguous Virus exclusion.

So far, none of the similar bills proposed in New Jersey, New York, Ohio, Massachusetts or Louisiana have been enacted into law. However, we will continue to track all of these bills very closely.

If you have any questions or need more information, contact Anthony L. Miscioscia (misciosciaa@whiteandwilliams.com; 215.864.6356), Edward M. Koch (Koch@whiteandwilliams.com; 215.864.6319) or Felix S. Yelin (yelinf@whiteandwilliams.com; 215.864.6317).

As we continue to monitor the novel coronavirus (COVID-19), White and Williams lawyers are working collaboratively to stay current on developments and counsel clients through the various legal and business issues that may arise across a variety of sectors. Read all of the updates [here](#).

[1][1] The term "eligible employee" is defined as "a full-time employee who works a normal work week of at least 25 hours."

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