
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **1114** Session of
2020

INTRODUCED BY HUGHES, KEARNEY, FONTANA, SANTARSIERO,
TARTAGLIONE, BREWSTER, SCHWANK, ARGALL, DINNIMAN, BOSCOLA,
LEACH, IOVINO, FARNESE, MASTRIANO, COLLETT, COSTA, MUTH AND
BLAKE, APRIL 15, 2020

REFERRED TO BANKING AND INSURANCE, APRIL 15, 2020

AN ACT

1 Providing for coverage under business interruption insurance
2 during the COVID-19 disaster emergency.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the COVID-19
7 Insurance Relief Act.

8 Section 2. Legislative findings.

9 The General Assembly finds the following:

10 (1) A novel coronavirus, referred to as COVID-19,
11 emerged in Wuhan, China, and began infecting humans in
12 December 2019 and, since that time, has spread to more than
13 169 countries, including the United States, and killed over
14 22,000 people worldwide.

15 (2) On March 6, 2020, following the announcement of the
16 first two presumptive positive cases of COVID-19 in
17 Pennsylvania, Governor Tom Wolf signed an emergency disaster

1 declaration in response to the increased risk of the virus.

2 (3) On March 11, 2020, the World Health Organization
3 declared COVID-19 a pandemic.

4 (4) COVID-19 constitutes a serious threat to the health
5 of the residents of this Commonwealth and an emergency, which
6 has the potential to cause significant adverse impacts upon
7 the entire Commonwealth population.

8 (5) On March 13, 2020, Pennsylvania had 33 confirmed
9 cases of COVID-19. In an effort to mitigate the spread of
10 COVID-19, Governor Wolf ordered the Statewide closure of
11 schools grades kindergarten through 12.

12 (6) On March 16, 2020, the number of confirmed cases
13 more than doubled to 76 as Governor Wolf ordered the
14 Statewide shutdown of nonessential businesses, including
15 community centers, gyms, entertainment centers and
16 nonessential retail. The Governor's order closed dine-in
17 facilities in restaurants and bars and permitted only takeout
18 and delivery services to continue.

19 (7) In conjunction with the ordered closures, the
20 Governor and the Secretary of Health urged the residents of
21 this Commonwealth to adhere to the practice of "social
22 distancing" and to self-quarantine if feeling ill or
23 exhibiting symptoms of COVID-19.

24 (8) On March 19, 2020, due to the continued community
25 spread of COVID-19, the Governor ordered all non-life-
26 sustaining businesses to close physical locations until
27 further notice.

28 (9) Since then, the Governor has issued a stay-at-home
29 order for the entire Commonwealth.

30 (10) As of April 7, 2020, there were 14,559 positive

1 cases and 249 deaths in this Commonwealth as a result of
2 COVID-19. Unfortunately, the number of positive cases and
3 deaths is expected to increase.

4 (11) As a result of the continued spread of COVID-19,
5 businesses have been forced to close and those that can
6 remain open have drastically reduced their workforce, which
7 has led to significant adverse impacts to both businesses and
8 individuals.

9 (12) Inherent in the police powers of the legislature is
10 the ability to enact laws that are necessary for the good of
11 the public. Those laws may result in an impairment of
12 contract rights when the legislature has a significant and
13 legitimate public purpose, such as remedying a social or
14 economic problem.

15 (13) COVID-19 and the mandated closures have resulted in
16 major economic upset throughout this Commonwealth, and
17 businesses are in dire straits. Although businesses may have
18 insurance to account for losses related to business
19 interruptions, they are prohibited from making such claims
20 because of a "virus exclusion" to covered perils related to
21 global virus transmission and pandemic.

22 (14) Because of the "virus exclusion," businesses will
23 be prohibited from making claims under business interruption
24 or civil authority provisions, which may be their only
25 lifeline during these uncertain times.

26 (15) The Insurance Services Office has developed a rider
27 to provide an insured with the option of purchasing coverage
28 for business interruptions related to loss or damage caused
29 by viruses, but to date the form has not been approved.

30 (16) Permitting coverage for business losses during the

1 COVID-19 disease pandemic and Statewide outbreak is necessary
2 to prevent further economic disruption and allow businesses
3 to remain functioning in the face of continued and uncertain
4 closures.

5 (17) COVID-19 is unlike anything we have experienced,
6 and the social and economic effects must be mitigated to
7 ensure the stability and well-being of the residents of this
8 Commonwealth and the businesses that employ them.

9 Section 3. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Civil authority order." The order of the Governor, issued
14 March 19, 2020, prohibiting or restricting the access to non-
15 life-sustaining business locations in this Commonwealth as a
16 direct result of property damage at or in the immediate vicinity
17 of those locations.

18 "COVID-19." The disease that is causing the 2019 novel
19 coronavirus outbreak and global pandemic. The term includes the
20 novel coronavirus, coronavirus disease 2019 or 2019-nCoV.

21 "Declared disaster emergency." The proclamation of disaster
22 emergency issued by the Governor on March 6, 2020, published at
23 50 Pa.B. 1644 (March 21, 2020), and any renewal of the state of
24 disaster emergency.

25 "Insurance company." An insurance company, association,
26 exchange or any other entity subject to the jurisdiction of the
27 Insurance Department, excluding any government-owned or
28 government-controlled insurance company, that insures property
29 under the act of May 17, 1921 (P.L.682, No.284), known as The
30 Insurance Company Law of 1921.

1 "Perils." A risk or cause of loss or damage.

2 "Policy of insurance." An enforceable contract between an
3 insurance company and an individual or business, including any
4 endorsement, rider, written or oral binder, cover note,
5 certificate or other instrument of insurance attached or
6 relating to the enforceable contract, without regard to the form
7 of insurance, which provides any of the coverages enumerated in
8 section 202 of the Insurance Company Law of 1921, except:

9 (1) Life, annuity, health or disability insurance.

10 (2) Mortgage guaranty, financial guaranty or other forms
11 of insurance offering protection against investment risks.

12 (3) Fidelity or surety bonds or any other bonding
13 obligations.

14 (4) Credit insurance, vendors' single interest insurance
15 or collateral protection insurance or any similar insurance
16 protecting the interests of a creditor arising out of a
17 creditor-debtor transaction.

18 (5) Insurance of warranties or service contracts.

19 (6) Title insurance.

20 (7) Ocean marine insurance.

21 (8) Transaction or combination of transactions between a
22 person, including affiliates of the person, and an insurer,
23 including affiliates of the insurer, which involves the
24 transfer of investment or credit risk unaccompanied by
25 transfer of insurance risk.

26 (9) Insurance provided by or guaranteed by a
27 governmental entity.

28 (10) Workmen's compensation and employer's liability
29 insurance.

30 "Property damage." In a building, office, retail space,

1 structure, plant, facility, commercial establishment or other
2 area of business activity, the direct physical loss, damage or
3 injury to tangible property, as a result of a covered peril,
4 including, but not limited to:

5 (1) The presence of a person positively identified as
6 having been infected with COVID-19.

7 (2) The presence of at least one person positively
8 identified as having been infected with COVID-19 in the same
9 municipality of this Commonwealth where the property is
10 located.

11 (3) The presence of COVID-19 having otherwise been
12 detected in this Commonwealth.

13 "Small business." A business that, on the effective date of
14 this section:

15 (1) satisfies the United States Small Business
16 Administration's criteria to qualify as a small business
17 under 13 CFR Pt. 121 (relating to small business size
18 regulations); or

19 (2) has received or will receive funding through a
20 program administered by the United States Small Business
21 Administration.

22 Section 4. Relief.

23 (a) Covered perils.--Notwithstanding any other law, rule or
24 regulation, a policy of insurance insuring against a loss
25 related to property damage, including the loss of use and
26 occupancy and business interruption, shall be construed to
27 include among the covered perils coverage for loss or property
28 damage due to COVID-19 and coverage for loss due to a civil
29 authority order related to the declared disaster emergency and
30 exigencies caused by the COVID-19 disease pandemic.

1 (b) Coverage limits.--The coverage required under subsection
2 (a) must indemnify the insured for losses related to the
3 declared disaster emergency subject to the policy limits for
4 loss of business or business interruption and subject to the
5 maximum individual policy limits. The following shall apply:

6 (1) Insureds classified as a small business shall
7 receive 100% of the policy limit for eligible claims for
8 covered losses.

9 (2) Insureds not classified as a small business shall
10 receive 75% of the policy limit for eligible claims for
11 covered losses.

12 Section 5. Rulemaking authority.

13 The Insurance Commissioner shall promulgate rules and
14 regulations necessary to effectuate the administrative
15 provisions of this act.

16 Section 6. Applicability.

17 This act shall apply:

18 (1) To active insurance policies with effective dates
19 prior to March 6, 2020.

20 (2) To insurance companies providing coverage against
21 loss or damage to property, which includes the loss of use
22 and occupancy, and business interruption in this
23 Commonwealth.

24 Section 7. Exclusive jurisdiction of Supreme Court.

25 The Pennsylvania Supreme Court shall have exclusive
26 jurisdiction to hear any challenge to or to render a declaratory
27 judgment concerning the constitutionality of this act. The
28 Supreme Court is authorized to take such action as it deems
29 appropriate, consistent with the Supreme Court retaining
30 jurisdiction, to find facts or to expedite a final judgment in

1 connection with such a challenge or request for declaratory
2 relief.

3 Section 8. Effective date.

4 This act shall take effect immediately.