



Louisiana, Pennsylvania and South Carolina Consider Legislation to Insure Coverage for COVID-19 Business Interruption Losses

By Richard W. Brown and Andres Avila

Louisiana, Pennsylvania and South Carolina are considering legislation that would mandate coverage under property policies for business interruption losses resulting from the COVID-19 pandemic. These states join the growing group of states that are considering enacting such legislation, which now includes New Jersey, Massachusetts, Ohio and New York.

Louisiana

House Bill No. 858 (the "LA Bill"), if enacted, would require property carriers to provide coverage for business interruption losses resulting from COVID-19, under property policies in force on March 11, 2020, which cover loss of use and occupancy and business interruption claims. The LA Bill would apply to insureds with less than 100 full-time employees in Louisiana, and would apply retroactively from March 11, 2020.

Pennsylvania

Similarly, House Bill No. 2372 (the "PA Bill") provides that any property policies covering loss of use and occupancy and business interruption losses, in force in Pennsylvania on March 6, 2020, shall be construed to include as a covered peril business interruption losses resulting from global virus transmission or pandemic. Notably, the PA Bill would mandate property carriers to cover such claims, subject to the greatest limits available and lowest deductible afforded to business interruption under the Policy, on any loss of profits for the duration of the declared emergency.

The PA Bill would apply to insureds with fewer than 100 full-time employees in Pennsylvania who work a normal week of at least 25 hours. Similar to the bills being considered by other state legislators, the PA Bill would authorize such property insurers to seek reimbursement of any amounts paid through a fund administered by the Pennsylvania Insurance Commissioner.

South Carolina

The South Carolina Senate Bill 1188 (the "SC Bill") was introduced on April 8, 2020 and is under review by the Senate Committee on Banking and Insurance. If approved, it would require that every policy in force in South Carolina insuring against loss or damage to property that includes a loss of use and occupancy or business interruption, is construed to afford coverage for business interruption loss resulting from the global COVID-19 pandemic. The SC Bill would apply to policies issued to insurers with 50 or fewer full-time employees in South Carolina and in force on the effective date of the act or that become effective prior to the date on which the Governor's state of emergency declaration expires.

Notably, the SC Bill explicitly prohibits property insurers from denying coverage for business interruption claims resulting from COVID-19 on the basis of any virus exclusion, a lack of direct physical loss or damage to property, or based on any civil authority order or decision of a governmental entity.

SDV will continue to monitor the status of state and federal COVID-19-related legislation and keep policyholders informed on all issues concerning insurance coverage for the COVID-19 pandemic.

For more information, contact [Richard W. Brown](mailto:rwb@sdvlaw.com) at rwb@sdvlaw.com and [Andres Avila](mailto:ara@sdvlaw.com) at ara@sdvlaw.com or call 203.287.2100.