



MICHELMAN & ROBINSON, LLP

BUSINESS INTERRUPTION COVERAGE

June 29, 2020

MEMORANDUM

To: David Hauge

From: Samuel Licker

RE: **Managing Insurer Liability and Exposure in the Age of COVID-19 – Legislative and Regulatory Actions Relating to Business Interruption Insurance in Response to COVID-19**

Date: June 29, 2020

I. United States Congress

A. Pending Legislation

1. [U.S. House Bill 6494](#) – Business Interruption Coverage Act of 2020

- a. Introduced on April 14, 2020 and referred to the House Committee on Financial Services
- b. Introduced by Rep. Thompson (D-CA); additionally, sponsored by: Reps. Hastings (D-FL), Napolitano (D-CA), McNerney (D-CA), Cisneros (D-CA), Cox (D-CA), Garamendi (D-CA), and Porter (D-CA).
- c. Summary:
 - i. **Coverage:** An insurance company providing coverage for business interruption must, in all of its policies, make available coverage resulting from:
 - 1. Viral pandemics
 - 2. Forced closures of business or mandatory evacuations by executive order
 - 3. Any power-shut off for public safety
 - ii. Such coverage cannot differ materially from the insurer's other coverages for losses arising from other events
 - ii. **Pre-Emption and Nullification:** The Bill pre-empts state law and nullifies any pre-existing exclusions in contracts for business interruption insurance
 - 1. **Exclusions:** An insurer may only reinstate a preexisting exclusion if it either:
 - a. Receives an affirmative written statement from the insured allowing it to do so, or
 - The insured fails to pay any increased premium *and* the insurer had already provided notice of the increased premium and the insured's rights with respect to the coverage.

2. [U.S. House Bill 6497](#) – Never Again Small Business Protection Act of 2020

- a. Introduced on April 14, 2020 and referred to the House Committee on Financial Services
- b. Introduced by Rep. Fitzpatrick (R-PA); additionally, sponsored by: Reps. Cisneros (D-CA), Hurd (R-TX), Suozzi (D-NY), Phillips (D-MN), and Harder (D-CA).
- c. Summary

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- i. **Coverage:** Insurers that offer business interruption insurance must *make available* optional *additional* coverage that:
 1. Covers losses resulting from business interruption due to a federal or state Order requiring businesses to cease operations during a national emergency and
 2. Covers such losses for a continuous period beginning on the declaration of the national emergency (not shorter than 30 days).
- ii. **Limitation:** coverage under this Act shall not cover an insured business that involuntarily fires any employee during the emergency or terminates health care coverage for any employee during the emergency (if health care coverage was provided beforehand).
- iii. **Exclusions:** Contracts for business interruption coverage can exclude coverage provided for under the Act only if:
 1. The insurer receives and affirmative written statement from the insured allowing it to do so, or
 2. The insured fails to pay any premium for providing such coverage.
- iv. **Effective Date:** This Act shall only become effective following a 180-day study regarding the effectiveness of using a federal backstop mechanism, private equity pools, risks assessments, and market pricing to reinsure insurers for excessive losses under coverage made under this Act.

3. [US House Bill 6800](#) – HEREOS Act

- a. Introduced on May 12, 2020; May 15, 2020 – [ENGROSSED](#) on May 20, 2020 (50% progression); Read the second time; Placed on Senate Legislative Calendar under General Orders (Calendar No. 455) on June 1, 2020.
- b. Partisan Bill, introduced by Rep. Lowey (D-NY); co-sponsored by Reps. Engel (D-NY), Maloney (D-NY), Nadler (D-NY), Neal (D-MA), Pallone (D-NJ), Scott (D-VA), Takano (D-CA), Velazquez (D-NY), Waters (D-CA), Grijalva (D-AZ), and Lofgren (D-CA).
- c. **Summary** (of relevant section(s) relating to Business Interruption Insurance)
 - i. § 20213 relates to [Business Interruption Credit for Certain Self-Employed Individuals](#), providing for a credit against tax for the taxpayer's first taxable year beginning in 2020 equal to 90% of the eligible self-employed individual's qualified self-employment income, subject to certain limitations.

4. [US House Bill 7011](#) – Pandemic Risk Insurance Act of 2020 (“PRIA”)

- a. Introduced on May 26, 2020; Referred to the House Committee on Financial Services
- b. Partisan Bill, introduced by Rep. Carolyn B. Maloney (D-NY-12)
- c. **Summary**
 - i. To establish a Federal program that provides for a system of shared public and private compensation for business interruption losses resulting from a pandemic or outbreak of communicable disease
 - ii. PRIA, if passed, will create the Pandemic Risk Reinsurance Program (“PRRP”), which would, among other things:
 1. Establish that participation in the program is voluntary for insurers who may sign up annually;
 2. Mandate that participating insurers provide business interruption insurance policies (including event cancellation insurance) that include pandemics;

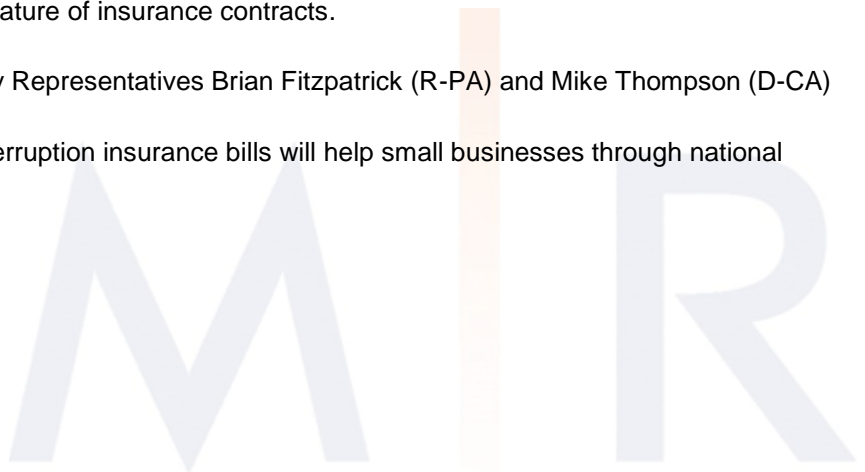
3. Clarify that the PRRP will only be triggered when aggregate insured losses for a covered public health emergency, as defined, exceed \$250 million;
 4. Establish that the Federal share of compensation is equal to 95% of insured losses that exceed the insurer deductible, once the PRRP has been triggered;
 5. Set each participating insurer's deductible at 5% of the value of the insurer's direct earned premiums during the preceding calendar year;
 6. Establish a \$750 billion program cap for Federal compensation and authorize the Treasury Secretary to determine the pro-rata share of compensation beyond that cap if losses exceed such cap; and
 7. Clarify that the program does not prohibit insurers from purchasing reinsurance coverage in the private market.
- iii. PRIA will *not* be retroactive, *however*, if an insurer wishes to participate in the PRRP going forward, exclusions in effect on the date of enactment of the Act that specifically exclude losses covered under the PRRP will be void, and any state approval of those exclusions is preempted, unless the exclusion can meet certain criteria, such as written approval from the policyholder.

5. [U.S. House Bill 7394](#)

- a. Introduced on June 26, 2020 and referred to the House Committee on Financial Services
- b. A Bill to **establish a temporary voluntary program for support of insurers providing business interruption insurance coverage during the COVID-19 [*sic*] pandemic**, and for other purposes.
 - i. **No bill text drafts currently on file.*

II. **Federal Articles / Commentary / Public Notices**

1. Commentary on Treasury's Response on Business Interruption – [Fox News](#) (May 13, 2020)
 - a. FoxBusiness reporting that the Treasury department maintains that Insurers do not need to pay coronavirus business interruption claims – forcing insurers to pay is against the nature of insurance contracts.
2. [Editorial](#) published by Representatives Brian Fitzpatrick (R-PA) and Mike Thompson (D-CA) (May 6, 2020)
 - a. Business interruption insurance bills will help small businesses through national emergencies



III. United States of America and the District of Columbia

1. Alabama (AL)
 - a. Alabama [ALDOI FAQ](#) about Business Interruption Insurance (4/27/20)
2. Alaska (AK)
 - a. Alaska DOI [Consumer Advisory Alert](#) on Business Interruption Insurance (5/13/20)
3. Arizona (AZ)
 - a. Arizona Department of Insurance [News Release](#) – COVID-19 Related Relief to Property and Casualty Insurance Customers (website updated frequently)
4. Arkansas (AR)
 - a. Arkansas Insurance Department [Bulletin No. 9-2020](#) – Business Interruption Insurance and COVID-19 (3/23/20)
5. California (CA)
 - a. CA [AB1552](#) – engrossed on January 27, 2020
 - i. *According to the APCIA, there is [DRAFT](#) language which would totally change this bill (which deals with pupil instruction for Native American studies) to provide for a **rebuttable presumption**, with respect to a policy of commercial insurance that provides coverage for **business interruption**, that COVID-19 was present on the insured's property **and caused physical damage** to the property, which was the direct cause of the business interruption.
 - b. [CDI FAQ](#) on business interruption insurance and other issues affecting California small businesses (website updated frequently)
 - c. [Notice](#) (4/14/20) – Requirement to accept, forward, acknowledge, and fairly investigate all business interruption insurance claims caused by the COVID-19 Pandemic.
 - d. CDI [Bulletin 2020-3](#) (4/13/20) issued to all property and casualty insurers and workers compensation insurers regarding premium refunds, credits, and reductions in response to COVID-19 Pandemic
 - e. [Notice](#) (3/26/20) – Request for Information: Business Interruption Related Coverage in California.
 - i. The CDI issued a [Q&A Notice](#) relating to the Business Interruption Survey (BIS-2020), updated 4/03/2020)
 - ii. The Survey materials and related information can be found on the [CDI website](#).
6. Colorado (CO)
 - a. [CO SB222](#) – introduced in Senate June 9, 2020; Senate Second Reading Special Order - Passed with Amendments and Engrossed on June 10, 2020; Senate considered House Amendments – Enrolled on June 15, 2020; Sent to the Governor on June 19, 2020.
 - i. [Text](#) as Enrolled (75% Progression)
 - ii. Bill will create a grant program for small businesses affected by economic hardship caused by COVID-19 that is financed by money received from the federal government pursuant to the CARES Act.
 - b. Colorado [Bulletin No. B-5.39](#) (4/06/20) – Property and Casualty Discounts during Coronavirus (COVID-19)
 - c. Colorado [Business Interruption FAQ](#) (4/03/20)
 - i. The FAQs contain a statement that the Colorado Division of Insurance plans to collect data from insurance companies related to business interruption.

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7. Connecticut (CT)
 - a. Connecticut Insurance Department [Notice](#): Business Interruption Insurance and the Novel Coronavirus (website updated frequently)
 - b. Connecticut Insurance Department – The Novel Coronavirus and Business Interruption Insurance – [CID FAQs](#) (website updated frequently)
8. Delaware (DE)
 - a. Delaware Department of Insurance – Additional [Insurance Guidance](#) Relating to COVID-19 (Coronavirus) (3/20/20)
 - b. Delaware Department of Insurance [COVID-19 Insurance FAQ](#) (see section on Business Interruption Insurance) (website updated frequently)
9. District of Columbia (DC)
 - a. [DC PR23-0818](#) (Washington D.C. Council Resolution 230818) – [Coronavirus Support Emergency Declaration Resolution of 2020](#)
 - i. Introduced on May 18, 2020, [Enrolled](#) on May 19, 2020; Retained by the Council for **June 9, 2020**
 1. Resolution to, among other things, provide businesses in the District relief through the creation of a small business grant program.
 - b. [DC PR23-0819](#) (Washington D.C. Council Resolution 230819) – [Coronavirus Support Congressional Review Emergency Declaration Review of 2020](#)
 - i. Introduced on May 18, 2020, [Enrolled](#) on May 19, 2020; Retained by the Council for **June 9, 2020**
 1. {same language as PR23-08181, above}
 - c. [DC PR23-0806](#) (Washington D.C. Council Resolution 230806) – [Coronavirus Omnibus Emergency Declaration of 2020](#) (Proposed Resolution)
 - i. Introduced on May 4, 2020; Retained by Council for **May 19, 2020**
 1. This Resolution would make it so D.C. businesses with business interruption insurance covering losses from a partial or total shut down due to “physical loss or damage” to include COVID-19 related losses.
 - ii. **Enrolled on May 5, 2020 as [DC Resolution 23-409](#)**
 1. The enrolled language of the Resolution does NOT contain provisions regarding business interruption insurance (i.e., does not retroactively affect business interruption insurance).
 - d. [DC B23-0750](#) (Washington D.C. Council Bill 230750) – [Coronavirus Omnibus Emergency Amendment Act of 2020](#)
 - i. Introduced on May 4, 2020; **PASS May 13, 2020**
 1. A Bill to provide *on an emergency* basis, additional protections to Districts residents and businesses during the current public health emergency.
 2. **The text of the Bill, as [Enrolled](#), removed Sec. 2 in its entirety – (Sec. 2, as introduced, mandated business interruption coverage be provided for losses due to a public health emergency, and that a claim could not be denied because there has been no “direct physical loss or physical damage) – (i.e., the Bill no longer affects business interruption insurance).**
 - e. [DC B23-0751](#) (Washington D.C. Council Bill 230751) – [Coronavirus Omnibus Temporary Amendment Act of 2020](#)
 - i. Introduced on May 4, 2020; **Engrossed on May 5, 2020** (50% Progression); Retained by Council for **May 19, 2020**

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1. A Bill to provide *on a temporary* basis, additional protections to Districts residents and businesses during the current public health emergency
 2. The text of the Bill, as *introduced*, contained a Sec. 2 providing substantially the same language as in DC B23-0750; **however, the text of the Bill as [Engrossed](#) does not affect policies of business interruption insurance).**
- f. Commissioner's [Order 03-2020](#) prohibiting termination of insurance policies due to non-payment, requiring reasonable accommodations to policyholders, requiring insurers to allow for self-audits and premium adjustments, and requiring a waiver or suspension of the "commercial" or "livery" use exclusions
- i. *See also* Commissioner's [Order 01-2020](#).
- g. D.C. Department of Insurance, Securities and Banking [Statement](#) on Business Interruption Insurance (website updated frequently)
10. Florida (FL)
- a. No FAQs/Bulletins/Legislation relating to Business Interruption Insurance to report
11. Georgia (GA)
- a. Georgia [Directive 20-EX-5](#) (3/20/20) – New Actions to Protect Consumers and Industry During Coronavirus (COVID-19) Situation
 - b. Georgia Insurance and Safety Fire Commissioner [News Release](#) (3/17/20) – Commissioner King Announces Additional COVID-19 Measures
 - c. Georgia [Directive 20-EX-4](#) (3/16/20) – Additional Action to Assist Individuals Impacted by Coronavirus (COVID-19)
 - i. Includes an expedited approval process for insurers offering business interruption coverage
12. Hawaii (HI)
- a. Hawaii DCCA COVID-19 Business Insurance [FAQs](#) (4/03/20)
13. Idaho (ID)
- a. Idaho DOI COVID-19 Business Interruption Insurance Coverage [FAQs](#) (website updated frequently)
 - b. Idaho [Bulletin No. 20-08](#) (4/23/20) – Applicability of business interruption coverage to COVID-19 related claims.
 - c. [APCIA State Capital Bulletin](#) (4/22/20) – Idaho Director Provides Verbal COVID-19 Guidance and Updates for Insurers
14. Illinois (IL)
- a. Illinois Department of Insurance [Company Bulletin 2020-15](#) – Coverage related to business and property damage losses, including but not limited to those arising out of vandalism and looting (June 8, 2020) [affects 14 counties]
 - i. Insurers required to apply claims best practices consistent with the categorization of this event (June, 2020 protests) as a catastrophic event ... to the extent business interruption provisions are included and operative under a policy, insurers should base payouts on business activity levels that eliminate the impact of COVID-19.

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- b. [IL SB 2135](#) – Introduced on February 15, 2019 and amended 11 times (the latest being May 23, 2020) the Bill was Enrolled on May 23, 2020 (passed both Houses); Sent to the Governor of June 4, 2020; [PASSED](#) on June 12, 2020
 - i. Among other items, the Bill establishes a **task force on business interruption insurance policies** to consist of 10 members representing the Department of Insurance and the insurance industry. The task force is charged to study the impacts of the COVID-19 pandemic on businesses and the need for changes to business interruption insurance policies based on those impacts, including recommendations for legislation.
 - 1. Illinois established the Task Force on June 15, 2020, according to the [APCIA](#).
 - c. [Illinois Insurance Coverage and Coronavirus \(COVID-19\)](#) (website updated frequently)
 - i. Website includes a dropdown of FAQs related to Business Interruption Insurance
 - d. APCIA [Letter to Illinois Governor J.B. Pritzker](#) regarding executive action related to business interruption insurance (4/20/20)
15. Indiana (IN)
- a. Indiana Department of Insurance [notice on Business Interruption and Insurance](#) (website updated frequently).
16. Iowa (IA)
- a. No FAQs/Bulletins/Legislation relating to Business Interruption Insurance to report
17. Kansas (KS)
- a. Kansas Insurance Department – [COVID-19 FAQ](#) (updated 4/27/20)
18. Kentucky (KY)
- a. No FAQs/Bulletins/Legislation relating to Business Interruption Insurance to report
19. Louisiana (LA)
- a. Louisiana Department of Insurance – [Business Interruption Insurance FAQ](#)
 - b. [LA SB477](#) – A bill relative to property insurance; to require insurers to cover certain claims related to business interruption; to provide for required notice; and to provide for related matters
 - i. Introduced in the Senate on March 31, 2020; Reported with amendments. Rules suspended. Read by title; Committee amendments read and adopted. Ordered **engrossed and passed to third reading and final passage**.
 - ii. Engrossed on May 20, 2020; received in the House from the Senate, rules suspended, read by title, referred to the Committee on Insurance.
 - 1. Text as [Engrossed removed proposed law requiring coverage for business interruption due to the threat posed by COVID-19](#).
 - 2. Bill now simply requires every policy of insurance covering business interruption delivered or issued for delivery in this state on and after August 1, 2020, to **include a notice of all exclusions on a form prescribed by the commissioner of insurance**. Requires the form to be provided by the insurer and signed by the named insured or his legal representative.

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- c. [LA HB858](#) – A bill relative to business interruption insurance claims; to require coverage for business interruption claims due to coronavirus disease 2019; to provide for the scope of coverage; to provide for applicability; to provide for retroactive application; to provide for effectiveness; and to provide for related matters.
 - i. Introduced on March 31, 2020; Read by title, under the rules, referred to the Committee on Insurance on May 4, 2020
20. Maine (ME)
- a. Maine Bureau of Insurance [Bulletin 443](#) – Coronavirus Pandemic: Property and Casualty Coverage (4/07/20)
21. Maryland (MD)
- a. Maryland Insurance Administration – [Advisory](#) on Business Interruption Insurance (3/18/20)
22. Massachusetts (MA)
- a. [MA S1455](#) – a bill to promote business continuity and recovery after a disaster
 - i. Introduced January 22, 2019; on May 28, 2020, reported favorably by committee and referred to the Senate Ways and Means Committee
 - 1. Allowing a deduction for an amount equal to ½ of the expenditures paid or incurred during the taxable year for the purchase of business interruption insurance for business operations within the commonwealth (of Massachusetts)
 - ii. On June 4, 2020, the APCIA commented that the Massachusetts Joint Public Safety Committee has [reported](#) on the bill. The bill has been around in the Massachusetts legislature in one form or another for the last ten years, but this is the first time it has made it to the MA Senate Committee on Ways and Means.
 - b. [MA S2655](#) – for legislation to concern business interruption insurance. Financial services.
 - i. Introduced on April 6, 2020; April 23, 2020: House concurred; Pending Joint Financial Services Committee
 - ii. The bill would require certain insurance companies in the commonwealth to provide business interruption insurance coverage to their insured in connection with the COVID-19 pandemic (declared as an “emergency law”)
 - c. Insurance [FAQs](#) During Covid-19 (Coronavirus) Public Health Crisis (4/09/20) [links to Business Interruption FAQs]
 - d. Massachusetts – Business Interruption Insurance Mandate [SD2888](#) (4/03/20)
 - i. {*accompanied by S2655, above*}
23. Michigan (MI)
- a. [MI HB5928](#) – Business Interruption Coverage for COVID-19 Losses
 - i. Introduced on June 25, 2020
 - ii. “... each qualified insurance policy that is delivered, issued for delivery, or renewed in this state **must be construed to include among the perils under the policy coverage for loss of use and occupancy, loss of income, or other business interruption losses** directly or indirectly related to any of the following: (a) The global pandemic known as COVID-19, including any mutated form of the COVID-19 virus; (b) Any executive order

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issued by the governor related to COVID-19; or (c) Any order issued by a civil authority related to COVID-19.”

1. **Applies retroactively:** “appl[ies] to a qualified insurance policy that was in effect on January 1, 2020 or that was delivered, issued for delivery, or renewed in this state after December 31, 2019”
 - b. [MI HB5739](#) – a Bill to provide for business interruption coverage for COVID-19 losses
 - i. Introduced on April 24, 2020; Bill electronically reproduced April 30, 2020.
24. Minnesota (MN)
 - a. Minnesota Commerce Department – [Business Interruption Insurance and COVID-19 \(3/19/20\)](#)
25. Mississippi (MS)
 - a. Mississippi Insurance Commissioner Mike Chaney [Letter](#) – Understanding Business Interruption Insurance (4/24/2020)
 - i. See *also* the MS Coronavirus (COVID-19) [information page](#) on the MS Insurance Department’s website.
26. Missouri (MO)
 - a. Missouri [Consumer Alert](#): Business Interruption Insurance and COVID-19 (website updated frequently).
27. Montana (MT)
 - a. No FAQs/Bulletins/Legislation relating to Business Interruption Insurance to report
28. Nebraska (NE)
 - a. No FAQs/Bulletins/Legislation relating to Business Interruption Insurance to report
29. Nevada (NV)
 - a. Nevada Division of Insurance (NVDI) [Notice](#) stating the NVDI’s intent to disallow new exclusionary language related to COVID-19, viruses, or pandemics in business interruption policies until the end of the declared State of Emergency (6/16/20)
 - b. The Nevada Division of Insurance links to the [NAIC Statement](#) on Congressional Action Relating to COVID-19 and Business interruption insurance (3/25/20)
30. New Hampshire (NH)
 - a. New Hampshire Insurance Department [FAQ](#) about Business Interruption Insurance and COVID-19 (website updated frequently)
31. New Jersey (NJ)
 - a. [NJ S2555](#) – introduced in the Senate on June 8, 2020; referred to Senate Economic Growth Committee
 - i. An Act allocating federal funding for small business assistance and making an appropriation of \$100 million from a portion of the federal block grant funds allocated to the State from the federal Coronavirus Relief Fund under the CARES Act.
 - b. May 12, 2020: New Jersey Department of Banking and Insurance (DOBI) issued [Bulletin No. 20-22](#), pursuant to [Order No. A20-03](#) to all licensed, admitted and

- surplus lines insurers transacting property and casualty insurance in New Jersey requiring premium reductions and a monthly data call.
- c. [NJ Assembly Bill 3844](#) – concerns business interruption insurance during coronavirus disease 2019 state of emergency
 - i. Introduced on March 16, 2020: Emergency Resolution (63-0-0); Roll Call **PASS** (in the Assembly) (25% Progression)
 - ii. This bill 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. The bill would apply to businesses covered by such a policy with less than 100 eligible employees in the State of New Jersey.
 - iii. The bill provides that every policy of insurance insuring against 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.
32. New Mexico (NM)
- a. No FAQs/Bulletins/Legislation relating to Business Interruption Insurance to report
33. New York (NY)
- a. May 13, 2020: NY DFS issued [Section 308 Letter](#) to all authorized property/casualty insurers calling for a special report on liability policies written in NY and coverage exclusions or conditions that might pertain to losses related to COVID-19
 - i. The Section 308 letter, summarized by [APCIA](#), requires insurers to provide certain information regarding commercial liability insurance written in NY, due by May 21, 2020
 - 1. *(need APCIA login to access links)*
 - b. New York Department of Financial Services [Website](#) – Coronavirus: Business Interruption Insurance (website updated frequently)
 - c. [NY Senate Bill 8319](#) – Creates the coronavirus business interruption and municipal recovery program to provide grants through the empire state development corporation to businesses and municipalities which sustain economic losses as a result of the COVID-19 emergency; authorizes the issuance of bonds to fund the grants
 - i. Introduced on May 11, 2020; referred to Senate Commerce, Economic Development and Small Business Committee
 - d. [NY Assembly Bill 10327](#) - Requires certain perils be covered under business interruption insurance policies issued to certain human services and community-based health providers during the coronavirus disease 2019 (COVID-19) pandemic.
 - i. Introduced April 22, 2020; referred to Assembly Insurance Committee
 - e. [NY S08211](#) – requires certain perils be covered under business interruption insurance during the coronavirus disease 2019 (COVID-19) pandemic
 - i. Introduced April 17, 2020; Pending Senate Insurance Committee May 1, 2020 – PRINT NUMBER 8211A
 - f. [NY Assembly Bill 10226](#) – requires certain perils be covered under business interruption insurance during the coronavirus disease 2019 (COVID-19) pandemic.

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- i. Introduced on March 27, 2020; Pending Assembly Insurance Committee: April 29, 2020 – print number 10226a.
 - g. [NY Senate Bill S08178](#) – requires certain perils be covered under business interruption insurance during the coronavirus disease 2019 (COVID-19) pandemic.
 - i. Introduced on April 13, 2020; Recommit, Enacting Clause Stricken April 17
 - h. New York DFS [Sec.-308 Letter](#) Regarding Business Interruption Coverage (3/11/20)
 - 34. North Carolina (NC)
 - a. [NC S848](#) – COVID-19 Economic Recovery Grants
 - i. Introduced May 26, 2020; Amended June 11, 2020 and re-referred to the Senate Committee on Appropriations/Base Budget; [Engrossed](#) on June 19, 2020 (50% Progression) – Special Message sent to House on June 22, 2020
 - ii. Act to use funds from the Coronavirus Relief Fund (provided for by the CARES Act) to help businesses in North Carolina during the COVID-19 pandemic and to grow businesses in North Carolina after the pandemic.
 - b. North Carolina Insurance Commissioner Causey [Letter](#) cautioning against business interruption coverage mandates (4/23/20)
35. North Dakota (ND)
 - a. North Dakota State Government [COVID-19 FAQs](#) (see section on “Business Insurance”)
 - i. See specifically: [FAQ Response](#)
36. Ohio (OH)
 - a. [OH SB310](#) – Bill to provide federal COVID funding to local subdivisions
 - i. Enrolled, Amended, and [Passed](#) on June 4, 2020
 - b. [OH HB589](#) – Bill to require insurers offering business interruption insurance to cover losses attributable to viruses and pandemics and to declare an emergency.
 - i. Introduced March 24, 2020; Referred to the House Insurance Committee May 5, 2020
 - c. Ohio Department of Insurance [Resource](#) – Insurance and Coronavirus (COVID-19) (See section on “Ohio Businesses” → “Business Interruption Insurance Overview”)
37. Oklahoma (OK)
 - a. [OK SB553](#) – Engrossed on March 12, 2019; Amended and withdrawn from appropriations and budget on May 4, 2020
 - i. According to APCIA, there is [DRAFT](#) language to strike the entire bill and insert language requiring insurance policies to be construed to cover business interruption during period of declared COVID-19 Emergency.
 - b. Oklahoma Insurance Department [Bulletin PC 2020-01](#) – orders immediate measures to be taken by insurers (updated 4/06/20)
 - c. Oklahoma Insurance Department [FAQs](#) – Insurance Q&As on COVID-19 (See Business and Insurance Industry)
38. Oregon (OR)
 - a. Oregon Division of Financial Regulation [Memorandum](#) – Business Interruption Insurance and COVID-19
 - i. See, *generally*, Oregon COVID-19 insurance and financial services [website](#).

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39. Pennsylvania (PA)
- a. Pennsylvania Insurance Department [Press Release](#) (3/20/20) – Insurance Department Issues Notices to Regulated Entities to Urge Flexibility and Offer COVID-19 Outbreak Guidance
 - b. [PA SB1127](#) – An Act relating to property and business interruption insurance coverage for COVID-19 Pandemic-related Losses.
 - i. Introduced on April 30, 2020; referred to the Senate Banking and Insurance Committee
 - c. [PA SB1114](#) – providing for coverage under business interruption insurance during the COVID-19 disaster emergency
 - i. Introduced on April 15, 2020; referred to Senate Banking and Insurance Committee
 - d. [PA HR842](#) - A Resolution urging the Congress of the United States to facilitate payment to insurance companies through Federal stimulus funds for the reimbursement of costs associated with the payment of claims made on business interruption insurance policies during the COVID-19 pandemic.
 - i. Introduced April 13, 2020; Referred to Pennsylvania House Insurance Committee
 - e. [PA HB2386](#) – Providing for COVID-19 disaster emergency business interruption grants
 - i. Introduced April 6, 2020; Re-reported as [amended](#) on May 27, 2020
 - 1. To establish a program to educate businesses on the benefits of business interruption insurance coverage and promote the purchase of business interruption insurance and may provide financial assistance to eligible businesses to partially offset business interruption insurance premiums
 - f. [PA HB2372](#) – an Act providing for insurance coverage for business interruption
 - i. Introduced on April 3, 2020; referred to House Insurance Committee
40. Rhode Island (RI)
- a. [RI House Bill 8079](#) – COVID-19 Insurance Relief Act – Requires an Insurer to provide business interruption coverage due to the global pandemic COVID-19.
 - i. Introduced on June 19, 2020; referred to House Corporations Committee
 - ii. **Every policy of insurance insuring against loss or damage to property shall include among the covered perils under such policy coverage for business interrupting directly or indirectly resulting from the global pandemic known as COVID-19**
 - iii. Any business loss due to COVID-19, subsequent to the issuance of Executive Order 20-02, shall be construed as a direct physical loss or damage to the insured
 - iv. No insurer in the state shall deny a claim for the loss of use and occupancy and/or business interruption due to the COVID-19 pandemic, even if the policy omits language regarding a pandemic or virus, or the policy excludes:
 - 1. Losses resulting from a virus; or
 - 2. Collection under the policy where there is no physical damage to the property of the insured or to any other relevant property.
 - v. This act shall apply only to policies issued to insureds with 150 or fewer full-time equivalent employees in the state and policies which are in force on the effective date of this act or which become effective prior to the date of which executive order 20-02 is rescinded by the governor.

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- vi. Any **insurer** that is required to provide coverage to an insured that has filed a claim pursuant to this chapter **may apply to the department of business regulation for relief and reimbursement** from funds collected and made available for such purposes.
 - b. [RI House Bill 8064](#) – Allows businesses that had an insurance policy in place for business interruption as of March 9, 2019 to recover from their insurance companies for a COVID-19 business impact.
 - i. Introduced on June 18, 2020; referred to House Corporations Committee
 - ii. Every policy of insurance for loss or damage to property, which includes the loss of use and occupancy and business interruption, in force on March 9, 2020, 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 20-2.
 - iii. An insurer which indemnifies an insured who has filed a claim pursuant to its provisions may apply to the department of business regulation insurance division for relief and reimbursement from funds collected and made available for this purpose.
 - c. OHIC and DBR Answer Rhode Island’s Frequently Asked COVID-19 Questions ([FAQs](#))
 - d. Representative McNamara [Press Release](#) – drafting legislation to extend business interruption insurance for COVID-19 Pandemic (3/30/20)
 - e. Final Joint Trades Letter re Business Interruption (4/08/20) [word document download]:
 - i. [Governor](#)
 - ii. [House](#)
 - iii. [Senate](#)
41. South Carolina (SC)
- a. [SC S1188](#) – a Bill To Provide That Every Policy Of Insurance In Force In This State Insuring Against Loss Or Damage To Property, Notwithstanding The Terms Of The Policy And Including Any Endorsement Thereto Or Exclusions To Coverage Included Therewith, That Includes A Loss Of Use And Occupancy, Or Business Interruption, Shall Be Construed To Include, Among The Covered Perils Under The Policy, Coverage For Business Interruption Directly Or Indirectly Resulting From The Global Pandemic Known As Covid-19, Including All Mutated Forms Of The Covid-19 Virus.
 - i. Introduced April 8, 2020; referred to Committee on Banking and Insurance
 - 1. SC Senate *In Recess*
 - b. South Carolina [DOI Notice](#) – Business Interruption Insurance Coverage and the Coronavirus (COVID-19)
42. South Dakota (SD)
- a. No FAQs/Bulletins/Legislation relating to Business Interruption Insurance to report
43. Tennessee (TN)
- a. Business Interruption [TDCI FAQs](#) (4/23/20)
44. Texas (TX)
- a. Business Interruption [TDI FAQs](#) (4/17/20)

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- 45. Utah (UT)
 - a. Utah Insurance Department [Bulletin 2020-2](#) – Guidance for Business Interruption Claims Related to COVID-19 or the March 18 Earthquake (3/23/20)

- 46. Vermont (VT)
 - a. [VT S0351](#) – introduced on June 11, 2020; [Enrolled](#) on June 12, 2020; House proposal of amendment concurred in Senate Message on June 26, 2020.
 - i. Act relating to providing financial relief assistance to the agricultural community due to the COVID-19 public health emergency
 - 1. Note that “economic harm” is not compensable if the same economic harm has been or will be covered by insurance
 - b. [VT S0350](#) – introduced on June 5, 2020 by the Senate Committee on Economic Development, Housing, and General Affairs; Enrolled on June 9, 2020; Read First Time and referred to the Committee on Appropriations on June 10, 2020; Rules suspended and bill messaged forthwith to the Senate as moved by Rep. McCoy of Poultney on June 12, 2020 → [PASSED](#) June 16, 2020; Signed by the Governor on June 19, 2020 (100% Progression)
 - i. Act to create emergency economic recovery grants from the Coronavirus Relief Fund
 - c. Vermont Department of Financial Regulation [Guidance](#) – COVID-19 and Business Income Insurance (3/17/20)
 - i. Also links to [NAIC Insurance Brief](#) on COVID-19 and Insurance

- 47. Virginia (VA)
 - a. Policyholder [Guidance](#) Concerning Business Interruption Insurance Coverage and COVID-19 (3/23/20)

- 48. Washington (WA)
 - a. Washington Insurance Commissioner issues [Statement](#) cautioning against business interruption mandates (4/17/20)
 - b. Washington OIC issues [Special Data Call](#) relating to business interruption and related commercial coverage written in Washington state (3/25/20)

- 49. West Virginia (WV)
 - a. WV Governor’s Comments ([VIDEO](#)) relating to Business Interruption during COVID-19 press briefing (go to 23 minute mark) (4/28/20)
 - b. West Virginia Issues Guidance Regarding Business Interruption Coverage and the COVID-19 Crisis – [Bulletin No. 20-08](#) (3/26/20)

- 50. Wisconsin (WI)
 - a. Wisconsin Office of the Commissioner of Insurance – [Guide](#) to Business Interruption Coverage During COVID-19

- 51. Wyoming (WY)
 - a. [WY HB1004](#) (mirror bill – [WY SF1004](#))– An Act relating to the emergency expenses of government related to business relief...
 - i. Introduced and Engrossed on May 14, 2020; President signed HEA No. 0001 and Bill **ENROLLED** on May 16, 2020; **PASSED** on May 20, 2020.
 - ii. Summary
 - 1. The bill creates the “Wyoming business interruption stipend program”

III. United States Inhabited Territories

1. American Samoa (AS)
2. Guam (GU)
3. Northern Mariana Islands (MP)
4. Puerto Rico (PR)
 - a. [HB 2469](#) (*Spanish Only*) (3/31/20)
5. Virgin Islands (VI)

