

Client Alert

April 2020

COVID-19 Pandemic Relief — Small Business Insurance Update

Some relief may be in sight for New York policyholders operating small business impacted by governmental restrictions imposed in response COVID-19. Olshan previously wrote about the challenges policyholders may face in seeking insurance coverage and the importance of businesses submitting insurance claims. You can find that information [here](#). Now, certain state legislatures have begun taking steps to provide some relief to policyholders suffering business interruption losses.

Significantly, a bill recently introduced in New York (A 10226) creates an avenue of recovery for any business with fewer than 100 full-time employees. The bill would require insurers to cover business interruption claims of such entities arising out of the COVID-19 state of emergency in New York. In particular, the bill provides that:

Notwithstanding any provisions of law, rule or regulation to the contrary, every policy of insurance insuring against loss or damage to property, which includes the loss of use and occupancy and business interruption, shall be construed to include among the covered perils under that policy, coverage for business interruption during a period of a declared state emergency due to the coronavirus disease 2019 (COVID-19) pandemic.

It further provides that it only applies to companies with “less [sic] than 100 eligible employees in in force on the effective date of this act.” An eligible employee would be a full-time employee who works a normal work week of 25 hours or more.

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Currently this bill is in committee. If it becomes law in New York, policyholders can expect lengthy legal challenges in court by insurers. But, regardless of the outcome, this effort in the New York Assembly emphasizes the need for policyholders to submit claims in order to maximize recovery of insurance assets.

New York has now joined at least three other states in considering legislative action with respect to COVID-19 related insurance losses. Ohio H.B. 589 and Massachusetts S.D. 2888 propose similar protections for small business with insurance claims. A similar bill introduced in New Jersey (A. 3844) reportedly has been pulled from a vote by its sponsor in order to assess how insurers respond to anticipated claims. The National Conference of State Legislatures is tracking information on COVID-19-related legislative action for all 50 states and has created [this useful tool](#) to follow this rapidly developing area.

The COVID-19 pandemic has caused considerable flux in the law and regulation of insurance. Consultation with experienced insurance professionals and counsel can maximize a company's recovery from its insurance assets. Please contact the Olshan attorney with whom you regularly work or the attorney listed below if you would like to discuss further or have questions.

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