

## **LD 694, An Act Concerning Business Interruption Insurance**

### **SUMMARY:**

This bill prohibits insurers that provide a policy insuring against loss or damage to property from excluding coverage for any loss of occupancy or business interruption directly or indirectly resulting from the COVID-19 pandemic. The bill also prohibits insurers from including a provision in a policy excluding coverage for any loss of occupancy or business interruption directly or indirectly resulting from a pandemic declared by the World Health Organization or the United States Government.

The bill is an emergency and would take effect when enacted by 2/3 of the Legislature. The bill also makes the requirements of this bill apply retroactively to March 15, 2020, the date a civil state of emergency was first declared in the State due to the COVID-19 pandemic.

## **LD 694, An Act Concerning Business Interruption Insurance**

### **ISSUES FOR CONSIDERATION:**

1. The sponsor suggested at the hearing that the retroactivity provision be removed from the bill.
2. The sponsor also suggested that the language be amended to remove specific reference to “COVID-19” and to add instead “loss of business due to unforeseen public health situations which result in the involuntary closure of a business.” The sponsor also suggested that insurers could be required to offer this coverage as a rider to businesses.
3. Representatives of insurers raised concerns that the bill, particularly the retroactive provision, presents significant legal issues and suggested that the bill, if enacted as drafted, would violate the Due Process clause, the Takings clause and the Contracts clause of the U.S. Constitution.
4. The Bureau of Insurance noted that insurance policies for business interruption coverage commonly include language excluding business disruptions due to communicable diseases or pandemics. The BOI also noted that these policies generally apply only in instances when a business has sustained physical damage.
5. What impact on financial stability and solvency of the insurance industry? Consider potential impact on guaranty fund?

## **LD 694, An Act Concerning Business Interruption Insurance**

### **ISSUES FOR CONSIDERATION (cont'd):**

6. Consider whether this is an “insurable risk” for which the appropriate premium can be determined? What would the premium cost be? Would it be affordable for businesses? Will insurers be able to procure reinsurance?
7. Consider whether additional federal response is needed? Assistance to businesses has been part of all federal relief packages enacted since the start of the pandemic.

### **FISCAL INFORMATION:**

Not yet determined