

Proposed Federal Business Interruption Insurance Coverage Act

Insights for Insurers Alert | 2 min read

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On April 14, 2020, United States Representative Mike Thompson (CA-05) introduced the Business Interruption Insurance Coverage Act of 2020 (H.R. 6494). Thompson stated the bill is intended “to ensure businesses who purchase interruption insurance will not get their claims denied because of major events, such as the Coronavirus pandemic, public safety power shutoffs or evacuations.” Representative Thompson also said H.R. 694 is “a solution to future forced closures to help small business owners and their employees. Forced closures shouldn’t mean the end of the local businesses that power our economy.” Seven Democratic co-sponsors, along with one Republican co-sponsor, are identified in the bill.

Section 2 of H.R. 6694 provides that, effective upon the date of the enactment,

each insurer that offers or makes available business interruption insurance coverage shall make available, in all of its policies providing business interruption insurance, coverage for losses resulting from (A) any viral pandemic; 10 (B) any forced closure of businesses, or mandatory evacuation, by law or order of any government or governmental officer or agency, including the Federal Government and State and local governments; or (C) any power shut-off conducted for public safety purposes; and (2) shall make available business interruption insurance coverage for losses specified in paragraph (1) that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than those specified in paragraph (1).

Under Section 3, any exclusion in a contract for business interruption insurance that is in force on the date of the enactment shall be void to the extent that it excludes losses specified in Section 2. The section purports to preempt state law by providing that any state approval of any exclusion of losses from a contract for business interruption insurance that is in force on the date this Act is enacted, shall be void to the extent that it excludes losses specified in section.

Further, the bill provides that an insurer may reinstate a preexisting provision in a contract if:

1. the insurer has received a written statement from the insured that affirmatively authorizes such reinstatement;
- or

2. if the insured fails to pay any increased premium charged by the insurer for providing such business interruption coverage after receiving notice.

H.R. 6494 raises several issues, but by its own terms, would not apply to the instant COVID-19 pandemic-related claims. We will continue to monitor developments.

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