



Legislation Text

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Res. No. 1335

Resolution calling upon the New York State Legislature to pass, and Governor to sign, A.10226-B/S.8211-A, requiring certain perils be covered under business interruption insurance during the COVID-19 pandemic.

By Council Members Gjonaj, Brannan, Rivera, Levine, Powers and Chin

Whereas, The outbreak of COVID-19 in the United States has caused governors across the country to implement stay-at-home orders; and

Whereas, On March 20th, Governor Cuomo signed the New York State (NYS) on PAUSE executive order, which mandated the closure of all non-essential businesses statewide; and

Whereas, Essential businesses were allowed to remain open but were required to implement strict social distancing rules; and

Whereas, As New Yorkers have stayed home to comply with the Governor's executive order, many small businesses in New York City (NYC) have been devastated by steep declines in revenue; and

Whereas, According to Governor Cuomo, over 100,000 small businesses have closed permanently across NYS due to their inability to pay their fixed costs throughout the pandemic, including rent and employee payrolls; and

Whereas, Many business owners in NYC have an insurance policy to provide their business with coverage for situations in which their normal business operations are disrupted; and

Whereas, Businesses buy this business interruption insurance to ensure they will be compensated for lost revenue when their business is forced to close unexpectedly; and

Whereas, When a business owner's claim for business interruption insurance is approved, the insurance company typically covers all profits the business is estimated to have made during non-interrupted times and

the operating expenses the business must pay while it is closed; and

Whereas, Business interruption insurance policies typically require the business to cite direct property loss or damage to qualify for coverage; and

Whereas, Many insurance companies have specifically excluded pandemics from their coverage due to previous global pandemics, such as SARS; and

Whereas, According to David A. Sampson, President and CEO of American Property Casualty Insurance Association, “many commercial insurance policies, including those that include business interruption coverage, do not include coverage for communicable diseases or viruses such as COVID-19”; and

Whereas, Because of the spread of COVID-19, NYC businesses have experienced property loss as business owners are unable to operate their business without violating Governor Cuomo’s PAUSE order; and

Whereas, State legislators from eight states and Washington D.C. have introduced bills that would retroactively require insurers to pay excluded business interruption claims due to COVID-19; and

Whereas, A.10226-B, introduced by NYS Assembly Member Robert Carroll, and S.8211-A, introduced by NYS Senator Andrew Gounardes, would require every insurance policy insuring against loss or damage to property to include among the covered perils coverage for business interruption during the state of emergency due to COVID-19; and

Whereas, The legislation would also render void all clauses or provisions of a business interruption insurance policy that exclude pandemics from their coverage; and

Whereas, This legislation would apply to all businesses with fewer than 250 full-time employees; and

Whereas, As New York small businesses received disproportionately less aid from the Small Business Administration’s Paycheck Protection Program than small businesses from other states, this legislation would provide necessary relief to NYC small businesses; and

Whereas, If businesses in NYC had their claims for business interruption insurance accepted, they could pay rent and their employee payrolls, which would minimize retail vacancies and unemployment in the City;

and

Whereas, As small businesses are the economic engine of NYC, employing over half of the City's private sector workforce, the survival of the City's small business economy is important to the City's economic recovery from the COVID-19 pandemic; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and Governor to sign, A.10226-B/S.8211-A, requiring certain perils be covered under business interruption insurance during the COVID-19 pandemic.

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6/12/2020
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