



Alerts

As COVID-19 Coverage Law Suits Are Filed, New Jersey Legislature Considers Mandated COVID-19 Business Interruption Coverage

March 17, 2020

Insights for Insurers

The first COVID-19-related insurance coverage cases are now being filed. In Louisiana, a [declaratory judgment action](#) was brought against Certain Underwriters at Lloyd's, asking the court to rule that an all-risk policy provides coverage to the Oceana Gill restaurant for losses resulting from the Louisiana governor's March 13, 2020 proclamation banning gatherings of 250 or more people in a single space, as well as restrictions implemented by the New Orleans mayor requiring restaurants to cease operations at 9 p.m. and limit seating capacity to 50%. The complaint alleges that the policy at issue "does not provide any exclusion due to losses, business or property, from a virus or global pandemic," and that it "only excluded losses due to biological materials such as pathogens in connection with terrorism or malicious use, therefore providing coverage to [sic] other viruses or global pandemics."

As we've previously [reported](#), insured entities likely will face an uphill battle when seeking coverage for COVID-19 losses under most commercial insurance policies. Perhaps, in recognition of this reality, the New Jersey legislature is considering extraordinary legislation, Assembly Bill 3844, which would rewrite property insurance policies to provide coverage for COVID-19 business interruption losses—even policies that contain a virus exclusion.

AB 3844 would apply to property policies that were in effect on March 9, 2020 and issued to insureds with less than 100 eligible employees in New Jersey. An eligible employee is a full-time employee who works 25 hours or more in a normal work week. The costs for any paid claims would ultimately be passed on to all insurers operating in New Jersey, except for life and health insurers.

The bill was introduced on March 16, 2020 and is working its way through [the legislative process](#). If the bill is passed, we expect it to be challenged on various grounds. We will continue to monitor this issue and related issues and provide relevant updates.

*Update: see our March 19th alert "[Future of New Jersey COVID-19 Insurance Coverage Bill is in Question](#)"

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