S. 1188

STATUS INFORMATION

General Bill
Sponsors: Senators Kimpson, Senn and Hutto
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Introduced in the Senate on April 8, 2020
Currently residing in the Senate Committee on Banking and Insurance

Summary: Not yet available

HISTORY OF LEGISLATIVE ACTIONS

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VERSIONS OF THIS BILL

4/8/2020
A BILL

TO AMEND ARTICLE 1, CHAPTER 75, TITLE 38 OF THE 1976 CODE, RELATING TO PROPERTY INSURANCE GENERALLY, BY ADDING SECTION 38-75-70, TO PROVIDE THAT EVERY POLICY OF INSURANCE IN FORCE IN THIS STATE INSURING AGAINST LOSS OR DAMAGE TO PROPERTY, NOTWITHSTANDING THE TERMS OF THE POLICY AND INCLUDING ANY ENDORSEMENT THERETO OR EXCLUSIONS TO COVERAGE INCLUDED THEREWITH, THAT INCLUDES A LOSS OF USE AND OCCUPANCY, OR BUSINESS INTERRUPTION, SHALL BE CONSTRUED TO INCLUDE, AMONG THE COVERED PERILS UNDER THE POLICY, COVERAGE FOR BUSINESS INTERRUPTION DIRECTLY OR INDIRECTLY RESULTING FROM THE GLOBAL PANDEMIC KNOWN AS COVID-19, INCLUDING ALL MUTATED FORMS OF THE COVID-19 VIRUS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 75, Title 38 of the 1976 Code is amended by adding:

“Section 38-75-70. (A) Notwithstanding any provision of law to the contrary, every policy of insurance in force in this State insuring against loss or damage to property, notwithstanding the terms of the policy and including any endorsement thereto or exclusions to coverage included therewith, that includes a loss of use and occupancy, or business interruption, shall be construed to include, among the covered perils under the policy, coverage for loss of use and occupancy, or business interruption, directly or indirectly resulting from the global pandemic known as COVID-19, including all mutated forms of the COVID-19 virus. Moreover, no insurer in
this State may deny a claim for a loss of use and occupancy, or
business interruption, with respect to COVID-19, including, but not
limited to, attempted insurer denials on account of:
(1) COVID-19 being a virus, even if the relevant insurance
policy excludes losses resulting from viruses;
(2) there being no physical damage to the property of the
insured or to any other relevant property; or
(3) orders issued by any civil authority, or acts or decisions of
a governmental entity.
(B) The coverage required by this section is subject to any
monetary limits of the policy and any maximum length of time set
forth in the policy.
(C) An insurer that is required to provide coverage to an insured
that has filed a claim pursuant to this section may apply to the
department for relief and reimbursement from funds collected and
made available for such purpose as provided in this section.
(D) The department shall establish procedures for the
submission and qualification of claims by insurers that are eligible
for reimbursement pursuant to this section. In addition, the
department shall establish procedures and standards to protect
against fraudulent claims for reimbursement and appropriate
safeguards for insurers to use in the review and payment of such
claims by their insureds.
(E) The department is authorized to make one or more
assessments in each fiscal year against licensed insurers in the State
as may be necessary to recover the amounts paid or estimated to be
paid pursuant to this section. Any assessment shall be made at a rate
and shall be determined and certified by the department as sufficient
to recover the amounts paid to insurers pursuant to this section. The
amount to be assessed shall be made against all licensed domestic
companies and foreign companies in proportion to their net
premiums written and annuity considerations in the State as shown
in the annual report of each of said insurers filed with the
department. The assessment shall reimburse the State for funds
appropriated for such reimbursement. Assessments under this
section shall be charged to the normal operating cost of each
company.”

SECTION 2. This act takes effect upon approval by the Governor
and shall only apply to policies that are issued to insureds with one
hundred fifty or fewer full-time equivalent employees in the State,
and that are in force on the effective date of this act or become
effective prior to the date on which the Governor’s state of
emergency declaration expires.