

FHMS COVID-19 Resource Center:

PA HOUSE'S LEGISLATIVE RESPONSE TO COVID-19 INSURANCE CLAIMS

We previously reported on [Pennsylvania Senate Bill 1114](#), which proposes that insurers be required to retroactively cover business interruption claims arising out of the COVID-19 pandemic. The Pennsylvania House of Representatives has proposed two bills regarding insurance coverage for COVID-19: HB 2372 and HB 2386.

[HB 2372: Business Interruption Insurance Act](#)

HB 2372, proposed on April 3, 2020, is similar to SB 1114. It would force insurance companies to retroactively cover business interruption claims due to COVID-19. But it has a few important differences.

HB 2372 would apply to insurance policies in effect on March 6, 2020 and issued to entities with fewer than 100 "eligible employees" in PA. "Eligible employee" is defined as "a full-time employee who works a normal work week of at least 25 hours." The Bill would require business interruption coverage for COVID-19-related claims to a policy's existing coverage limits and deductibles that would otherwise apply to a business interruption claim.

Unlike SB 1114, HB 2372 seeks to provide some relief to affected insurance companies, by allowing them to apply to the Pennsylvania Insurance Commissioner for reimbursement of COVID-19 business interruption claims from an account established by the Commissioner. The account would be funded by an apportionment collected from all property/casualty insurers doing business in PA. The Bill also requires the Pennsylvania Insurance Commissioner to establish fraud prevention measures to prevent the submission of fraudulent claims.

As of May 6, 2020, HB 2372 has been referred to the House Insurance Committee.

[HB 2386: COVID-19 Disaster Emergency Business Interruption Grant Act](#)

HB 2386 would establish a program to provide grants to eligible businesses who submitted business interruption claims that were denied.

To be eligible for a grant, a business must establish that it has been adversely impacted by the COVID-19 disaster emergency and submitted a claim under its business interruption insurance coverage that was denied by its insurer. Similar to HB 2372, HB 2386 would apply only to businesses based in Pennsylvania that employ 200 or fewer people. Grants given out under HB 2386 would not exceed the amount of the business interruption claim that the insurer denied. Businesses who receive a grant must remain open and cannot lay off any employees for the duration of the COVID-19 disaster emergency. Otherwise, the business must repay 110% of the grant.

As of May 6, 2020, HB 2386 has been committed to the House Finance Committee after the Commerce Committee recommended some amendments to the Bill.

These legislative efforts respond to the insurance industry's position that COVID-19-related claims are not covered under typical business interruption coverage, either because no physical damage to property has occurred, or because the policy expressly excludes coverage for viral contamination. Policyholders disagree with this position and are filing lawsuits across the country challenging same.

We continue to monitor the legislative developments in this area and we are available to discuss your questions or concerns. Please do not hesitate to contact us.

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