

**South Carolina General Assembly**  
123rd Session, 2019-2020

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## Bill 1188

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### 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.

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