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# Insurance companies may not pay for business losses from coronavirus. N.J. bill aims to change that.

by [Harold Brubaker](#), Updated: March 19, 2020

MARK LENNIHAN / AP FILE



News about the coronavirus is changing quickly. Go to [inquirer.com/coronavirus](https://www.inquirer.com/coronavirus) for the latest information.

Small-business owners banking on their so-called business disruption insurance to bail them out of the mounting losses being inflicted by the COVID-19 pandemic may be in for a rude shock.

That's because a little-known condition of coverage put in place in 2006, a few years after the SARS outbreak, excludes coverage for any "loss due to virus or bacteria."

Still, as business losses pile up, a New Jersey lawmaker is trying convince insurance companies that they have a key role play in mitigating the devastating economic impact of the coronavirus outbreak.

As part of efforts to help the economy recover, Assemblyman Roy Freiman, a Democrat from North Jersey, introduced a bill Monday that would force insurers to pay certain COVID-19 business interruption claims.

The bill is an early bid to tap into a large pool of money that could be used to help rebuild the economy after massive losses. Similar efforts happened after 9/11, Hurricane Katrina, and other catastrophes.

"It felt wrong for the insurance industry to sit on the sideline and not participate as part of a social responsibility of helping businesses out. Nor do I believe that they shoulder the responsibility of absorbing the losses and being the safety net," Freiman said Wednesday. "This has got to be a shared responsibility from a million different places."

Naturally, the bill, which would cover businesses with fewer than 100 employees working at least 25 hours a week, caused insurers to freak out, Freiman said. During negotiations with representatives of the insurance industry, Freiman agreed to hold the bill from a floor vote in the General Assembly, but he demanded a good-faith effort from insurers to help their clients, despite what the contract says.

The Insurance Council of New Jersey said Monday in a legislative statement that the industry was working on ways to address the needs of policy holders, but expressed concern "that this legislation would retroactively interfere with existing insurance contracts and mandate coverage in a commercial insurance policy where it may not currently exist."

The American Property Casualty Insurance Association on Friday bragged about the industry's financial strength, [citing a surplus of more than \\$822 billion](#), and warned: "Industry solvency will only be at risk if insurers are forced to pay claims not covered by current contracts."

That's because premiums were not calculated to include something such as COVID-19. No one would know what price to put on it.

One insurance lawyer said the New Jersey proposal would wreck havoc on the industry.

"If a legislature can revoke an exclusion that its regulators previously approved, insurers are left in the dark to price and issue policies," said Randy J. Maniloff, an insurance coverage lawyer at White & Williams in Philadelphia and adjunct professor of insurance law at Temple University School of Law.

Freiman said he appreciates the industry's perspective, but he said he insisted to them that "doing nothing is the wrong answer."

It's not clear how many small companies have business interruption insurance, which is typically designed to cover discrete physical damage. The Insurance Information Institute said a 2015 nationwide survey found that 66% of small businesses, generally identified as those with 50 or fewer employees, lacked business interruption coverage.

The New Jersey bill grabbed the attention of the Pennsylvania Restaurant & Lodging Association, which is hoping something similar could be done in Pennsylvania without legislation. The group's chief executive, John Longstreet, said its main focus right now is on short-term help for displaced employees, but longer term, he said, business might not be able to provide a place for employees to come back to if they can't survive.

"It's potentially a huge source of revenue to keep these restaurants in business throughout this crisis," Longstreet said. "They still have a lot of fixed expenses, and restaurants operate on a very slim margin."