

Legislative Bill Drafting Commission
14188-01-4

S. -----
 Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
 Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

***INSURLA* *Department of Financial
Services 2*
(Relates to business interruption
insurance)**

Ins. DFS 02 business interrup ins

AN ACT

to amend the insurance law, in
relation to authorizing stand-alone
business interruption insurance

The People of the State of New
York, represented in Senate and
Assembly, do enact as follows:

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s34 Fernandez	s28 Krueger	s01 Palumbo	s42 Skoufis
s43 Ashby	s60 Gallivan	s24 Lanza	s21 Parker	s11 Stavisky
s36 Bailey	s12 Gianaris	s16 Liu	s19 Persaud	s45 Stec
s57 Borrello	s59 Gonzalez	s50 Mannion	s13 Ramos	s35 Stewart-
s46 Breslin	s26 Gounardes	s04 Martinez	s05 Rhoads	Cousins
s25 Brisport	s53 Griffo	s07 Martins	s33 Rivera	s44 Tedisco
s55 Brouk	s40 Harckham	s02 Mattera	s39 Rolison	s06 Thomas
s09 Canzoneri-	s54 Helming	s48 May	s61 Ryan	s49 Walczyk
Fitzpatrick	s41 Hinchey	s37 Mayer	s18 Salazar	s52 Webb
s17 Chu	s47 Hoylman-	s03 Murray	s10 Sanders	s38 Weber
s30 Cleare	Sigal	s20 Myrie	s23 Scarcella-	s08 Weik
s14 Comrie	s31 Jackson	s51 Oberacker	Spanton	
s56 Cooney	s27 Kavanagh	s58 O'Mara	s32 Sepulveda	
s22 Felder	s63 Kennedy	s62 Ortt	s29 Serrano	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a078 Alvarez	a047 Colton	a034 Gonzalez-	a137 Meeks	a016 Sillitti
a031 Anderson	a140 Conrad	Rojas	a017 Mikulin	a052 Simon
a121 Angelino	a032 Cook	a150 Goodell	a122 Miller	a075 Simone
a037 Ardila	a039 Cruz	a116 Gray	a051 Mitaynes	a114 Simpson
a035 Aubry	a043 Cunningham	a100 Gunther	a145 Morinello	a094 Slater
a120 Barclay	a021 Curran	a139 Hawley	a144 Norris	a005 Smith
a106 Barrett	a018 Darling	a083 Heastie	a045 Novakhov	a118 Smullen
a105 Beephan	a053 Davila	a028 Hevesi	a069 O'Donnell	a022 Solages
a107 Bendett	a072 De Los Santos	a128 Hunter	a091 Otis	a110 Steck
a082 Benedetto	a003 DeStefano	a029 Hyndman	a132 Palmesano	a010 Stern
a027 Berger	a070 Dickens	a079 Jackson	a088 Paulin	a127 Stirpe
a042 Bichotte	a054 Dilan	a104 Jacobson	a141 Peoples-	a102 Tague
Hermelyn	a081 Dinowitz	a011 Jean-Pierre	Stokes	a064 Tannousis
a117 Blankenbush	a147 DiPietro	a134 Jensen	a023 Pheffer	a086 Tapia
a015 Blumencranz	a009 Durso	a115 Jones	Amato	a071 Taylor
a073 Bores	a099 Eachus	a125 Kelles	a063 Pirozzolo	a001 Thiele
a098 Brabenec	a048 Eichenstein	a040 Kim	a089 Pretlow	a033 Vanel
a026 Braunstein	a074 Epstein	a013 Lavine	a019 Ra	a055 Walker
a138 Bronson	a109 Fahy	a065 Lee	a030 Raga	a143 Wallace
a046 Brook-Krasny	a061 Fall	a126 Lemondes	a038 Rajkumar	a112 Walsh
a020 Brown, E.	a008 Fitzpatrick	a095 Levenberg	a006 Ramos	a041 Weinstein
a012 Brown, K.	a004 Flood	a060 Lucas	a062 Reilly	a024 Weprin
a093 Burdick	a057 Forrest	a135 Lunsford	a087 Reyes	a059 Williams
a085 Burgos	a124 Friend	a123 Lupardo	a149 Rivera	a113 Woerner
a142 Burke	a050 Gallagher	a129 Magnarelli	a067 Rosenthal, L.	a080 Zaccaro
a119 Buttenschon	a131 Gallahan	a101 Maher	a025 Rozic	a096 Zebrowski
a133 Byrnes	a007 Gandolfo	a036 Mamdani	a111 Santabarbara	a056 Zinerman
a044 Carroll	a068 Gibbs	a130 Manktelow	a090 Sayegh	a077
a058 Chandler-	a002 Giglio, J.A.	a108 McDonald	a076 Seawright	
Waterman	a148 Giglio, J.M.	a014 McDonough	a084 Septimo	
a049 Chang	a066 Glick	a097 McGowan	a092 Shimsky	
a136 Clark		a146 McMahon	a103 Shrestha	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and: in Assembly 2 copies of memorandum in support, in
Senate 4 copies of memorandum in support (single house); or 4 signed copies
of bill and 6 copies of memorandum in support (uni-bill).

1 Section 1. Paragraph 34 of subsection (a) of section 1113 of the
2 insurance law, as renumbered by chapter 359 of the laws of 2021, is
3 renumbered paragraph 35 and a new paragraph 34 is added to read as
4 follows:

5 (34) "Business interruption insurance" means insurance against loss of
6 use and occupancy, rents, and profits resulting from a business closure
7 due to: (A) loss of or damage to insured or neighboring property; (B) an
8 act or threatened act of violence while the perpetrator is on the busi-
9 ness premises; or (C) a government order.

10 § 2. Subsection (a) of section 2105 of the insurance law, as amended
11 by chapter 359 of the laws of 2021, is amended to read as follows:

12 (a) The superintendent may issue an excess line broker's license to
13 any person, firm, association or corporation who or which is licensed as
14 an insurance broker under section two thousand one hundred four of this
15 article, or who or which is licensed as an excess line broker in the
16 licensee's home state, provided, however, that the applicant's home
17 state grants non-resident licenses to residents of this state on the
18 same basis, except that reciprocity is not required in regard to the
19 placement of liability insurance on behalf of a purchasing group or any
20 of its members; authorizing such person, firm, association or corpo-
21 ration to procure, subject to the restrictions herein provided, policies
22 of insurance from insurers [which] that are not authorized to transact
23 business in this state of the kind or kinds of insurance specified in
24 paragraphs four through fourteen, sixteen, seventeen, nineteen, twenty,
25 twenty-two, twenty-seven, twenty-eight, thirty-one, thirty-two [and],
26 thirty-three and thirty-four of subsection (a) of section one thousand
27 one hundred thirteen of this chapter and in subsection (h) of this
28 section, provided, however, that the provisions of this section and

1 section two thousand one hundred eighteen of this article shall not
2 apply to ocean marine insurance and other contracts of insurance enumer-
3 ated in subsections (b) and (c) of section two thousand one hundred
4 seventeen of this article. Such license may be suspended or revoked by
5 the superintendent whenever in [his or her] the superintendent's judg-
6 ment such suspension or revocation will best promote the interests of
7 the people of this state.

8 § 3. Subsection (a) of section 4101 of the insurance law is amended to
9 read as follows:

10 § 4101. Definitions. In this article: (a) "Basic kinds of insurance"
11 means the kinds of insurance described in the following paragraphs of
12 subsection (a) of section one thousand one hundred thirteen of this
13 chapter numbered therein as set forth in parentheses below:

14 fire (4);

15 burglary and theft (7);

16 glass (8);

17 boiler and machinery (9);

18 elevator (10);

19 animal (11);

20 personal injury liability (13);

21 property damage liability (14) - basic as to stock companies only;

22 workers' compensation and employers' liability (15);

23 fidelity and surety (16);

24 credit (17);

25 marine and inland marine (20);

26 marine protection and indemnity (21) - basic as to mutual companies
27 only;

28 business interruption insurance (34).

1 § 4. Group A of table one of paragraph 1 of subsection (a) of section
 2 4103 of the insurance law, as amended by chapter 359 of the laws of
 3 2021, is amended to read as follows:

4 Group A:

5 7	\$300,000	\$150,000
6 8, 9, 10, 11, or 14 - for each such kind	\$100,000	\$ 50,000
7 13 or 15 - for each such kind	\$500,000	\$250,000
8 16	\$900,000	\$450,000
9 17	\$400,000	\$200,000
10 Basic additional amount		
11 required for any one		
12 or more of the above		
13 kinds of insurance	\$100,000	\$ 50,000
14 3(i), 3(ii), 6{1} or 12{2} - for each		
15 such kind	\$100,000	\$ 50,000
16 22	\$2,000,000	\$1,000,000
17 24	\$400,000	\$200,000
18 26(B)	\$200,000	\$100,000
19 26(A), 26(C) or 26(D) -		
20 for each such kind	\$600,000	\$300,000
21 27	\$300,000	\$150,000
22 28	\$2,000,000	\$1,000,000
23 30	\$400,000	\$200,000
24 31	\$100,000	\$ 50,000
25 32	\$100,000	\$ 50,000
26 33	\$100,000	\$ 50,000

1 34 \$2,000,000 \$1,000,0000

2 § 5. Table two of paragraph 1 of subsection (a) of section 4107 of the
3 insurance law, as amended by chapter 805 of the laws of 1984, is amended
4 to read as follows:

5 TABLE TWO

6	Kind of								
7	insurance								
8	specified								
9	in the								
10	following		Num-		Number				
11	numbered	Num-		ber	of				
12	paragraphs	ber	Number	of	Insur-		Minimum		
13	of subsec-	of	of	Sep-	ance		Surplus		
14	tion (a)	Mem-	Appli-	arate	Poli-	Initial	to be	Other	
15	of § 1113	bers	cations	Risks	cies	Surplus	Maintained	Requirements	
16	-----	-----	-----	-----	-----	-----	-----	-----	
17	4	50	300	300	--	\$ 300,000{1}	\$ 200,000{1}	see note{2}	
18	7	20	20	200	20	\$ 300,000	\$ 200,000	see note{3}	
19	8	20	20	300	20	\$ 150,000	\$ 100,000	see note{3}	
20	9	20	20	200	20	\$ 300,000	\$ 200,000	see note{3}	
21	10	20	20	300	20	\$ 150,000	\$ 100,000	see note{3}	
22	11	20	20	300	20	\$ 150,000	\$ 100,000	see note{3}	
23	13	100	100	500{4}	--	\$ 500,000{5}	\$ 400,000{5}	see note{6}	
24	15	40{7}	40	2,500{7}	--	\$ 500,000	\$ 400,000	see note{6}	
25		30{7}	30	5,000{7}	--	\$ 500,000	\$ 400,000	see note{6}	
26		20{7}	20	7,500{7}	--	\$ 500,000	\$ 400,000	see note{6}	

1		10{7}	10	10,000{7}	--	\$ 500,000	\$ 400,000	see note{6}
2	16	--	--	---	--	\$1,500,000	\$1,000,000	
3	17	20	20	2,000	20	\$ 750,000	\$ 500,000	see note{3}
4	20	50	300	300	--	\$1,000,000{8}	\$ 500,000{8}	see note{9}
5	21	20	20{10}	200{11}	--	\$ 500,000	\$ 500,000	see note{12}
6	<u>34</u>	<u>20</u>	<u>20</u>	<u>200</u>	<u>20</u>	<u>\$2,000,000</u>	<u>\$1,000,000</u>	<u>see note {3}</u>

7 § 6. This act shall take effect on the thirtieth day after it shall have
8 become a law.

DFS #02-24

Memorandum

An ACT to amend the insurance law
to authorize stand-alone business interruption insurance

Purpose of the bill:

This bill would amend the Insurance Law to authorize stand-alone business interruption insurance.

Summary of provisions:

Section 1 would renumber Insurance Law § 1113(a)(34) as (35) and add a new paragraph (34) to authorize stand-alone business interruption insurance.

Section 2 would amend Insurance Law § 2105(a) to permit an excess line broker to procure business interruption insurance.

Section 3 would amend Insurance Law § 4101(a) to make business interruption insurance a “basic kind of insurance.”

Section 4 would amend Group A of Table One, as set forth in Insurance Law § 4103(a)(1), to establish minimum paid-in capital and paid-in surplus requirements for stock insurers that write business interruption insurance.

Section 5 would amend Table Two, as set forth in Insurance Law § 4107(a)(1), to establish certain minimum requirements, including minimum initial surplus and minimum surplus to be maintained requirements, for mutual insurers that write business interruption insurance.

Section 6 would provide that the bill takes effect 30 days after it is signed into law.

Justification:

Currently, business interruption insurance typically covers loss of net profits when a covered peril, such as a fire, causes “direct physical loss of or damage to” insured property resulting in a closure or a reduction in business. Businesses may purchase additional coverage that applies if the business closes by order of a civil authority. Although this coverage extends business interruption insurance to cover loss of net profits when access to an insured’s property is prohibited by an order of civil authority, the business must close because of physical damage to a neighboring property that makes it unsafe for the business to open. As demonstrated with the coronavirus disease 2019 (“COVID-19”) pandemic, a business may be forced to close without the insured property or neighboring property suffering physical damage. Also, insurers, particularly in the excess line market, wish to write business interruption insurance that is not tied to physical damage as part of active shooter policies. This bill would amend Insurance Law § 1113(a) to make business interruption insurance an authorized kind of insurance that does not need to be tied to physical damage and would amend Insurance Law § 2105 to permit this insurance to be written in the excess line market if it is unavailable from authorized insurers. As a result, the bill would allow insurers to sell business interruption insurance that is not tied to physical damage, which businesses could purchase in the event of future pandemics or other events where there may not be physical damage to the property, such as an active shooter threat.

DEPARTMENTAL BILL #110

Prior legislative history:

This is a new bill.

Fiscal implications:

This bill will increase revenue in New York in the form of additional premium taxes if insurers can write this additional kind of insurance.

Effective date:

Thirty days after it is signed into law.