A BILL

To require insurers offering business interruption insurance to cover losses attributable to viruses and pandemics and to declare an emergency.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. (A) As used in this section:

(1) "Eligible employee" means a full-time employee who works a normal work week of twenty-five or more hours.

(2) "Net written premiums received" means gross direct premiums written, less return premiums thereon and dividends credited or paid to policyholders, as reported on the company's annual financial statement.

(3) "State of emergency" means the state of emergency declared under Executive Order 2020-01D, issued on March 9, 2020, to protect the well-being of Ohio citizens from the dangerous effects of COVID-19.

(B) Notwithstanding any other law or rule to the contrary, every policy of insurance insuring against loss or damage to property, which includes the loss of use and occupancy and
business interruption, in force in this state on the effective date of this section, shall be construed to include among the covered perils under that policy, coverage for business interruption due to global virus transmission or pandemic during the state of emergency.

(C) The coverage required by this section shall indemnify the insured, subject to the limits under the policy, for any loss of business or business interruption for the duration of the state of emergency.

(D) This section shall only apply to policies issued to insureds that meet all of the following:

(1) The business in question is located in this state.

(2) The business employs one hundred or fewer eligible employees.

(3) The business was covered by a policy of insurance as described in division (B) of this section that was in force on the effective date of this section.

(E) An insurer that indemnifies an insured who has filed a claim pursuant to division (B) of this section may apply to the Superintendent of Insurance for relief and reimbursement from funds collected and made available for this purpose as provided in division (F) of this section.

(F)(1) The Superintendent shall establish procedures for the submission and qualification of claims by insurers that are eligible for reimbursement under division (E) of this section. The Superintendent shall incorporate in these procedures such standards as are necessary to protect against the submission of fraudulent claims by insureds, and appropriate safeguards for insurers to employ in the review and payment of claims made by
businesses under division (B) of this section.

(2) The Superintendent may pay such claims in accordance with either of the following:

(a) Pay the claims as they are received from such funds as are available to the Superintendent;

(b) Pay the claims after the assessment charged under division (G) of this section is collected from the collected amounts.

(G)(1) The Superintendent shall charge an assessment to insurers engaged in the business of insurance under Chapter 3937. of the Revised Code in an amount as necessary to recover the amounts paid to insurers pursuant to this section.

(2) This assessment shall be distributed in proportion to the net written premiums received by each company subject to the assessment on risks in this state during the calendar year immediately preceding the effective date of this section.

(3) Funds collected pursuant to the assessment shall be deposited in the Business Interruption Insurance Fund, which is hereby created in the state treasury. The Superintendent shall use the fund to either pay claims to insurers as required under this section or to reimburse other funds as needed, if claims were paid prior to the collection of the assessment.

(4) Any amounts remaining in the Business Interruption Insurance Fund after the final claim has been paid or after funds have been reimbursed for claims paid shall be returned to insurers in a manner prescribed in rule by the Superintendent.

(5) When the balance of the Business Interruption Insurance Fund is zero, the fund shall be dissolved.
(H) The Superintendent of Insurance may adopt rules to implement this section. These rules shall not be subject to division (F) of section 121.95 of the Revised Code.

Section 2. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to protect small businesses from catastrophic losses caused by commercial decline necessary to prevent the spread of COVID-19. Therefore, this act shall go into immediate effect.