

AMENDED IN SENATE JUNE 29, 2020

AMENDED IN ASSEMBLY JANUARY 6, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1552

**Introduced by Assembly Members ~~Limón and Ramos and Limón~~
(~~Coauthors: Assembly Members Eduardo Garcia and Gonzalez~~)**

February 22, 2019

~~An act relating to pupil instruction, and making an appropriation therefor. An act to add Chapter 12 (commencing with Section 10109) to Part 1 of Division 2 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1552, as amended, ~~Limón Ramos. Pupil instruction: Native American studies: model curriculum. Commercial insurance: business interruption: coverage for COVID-19.~~

Existing law creates the Department of Insurance, headed by the Insurance Commissioner, and generally regulates the business of insurance in the state. Existing law authorizes the issuance of commercial insurance, which may cover, among other things, business interruption.

Other existing law, the California Emergency Services Act, authorizes the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property, including epidemics. Pursuant to this authority, on March 4, 2020, the Governor declared a state of emergency relating to the coronavirus 2019 (COVID-19) pandemic.

This bill, with respect to a policy of commercial insurance that provides coverage for business interruption, would create specified rebuttable presumptions affecting the burden of proof in a case in which the insured alleges that the business interruption was due to the COVID-19 pandemic and occurred during the period of the state of emergency declared by the Governor due to the COVID-19 pandemic. Specifically, the bill would create certain rebuttable presumptions that COVID-19 was present on specified property and caused physical damage to that property which was the direct cause of the business interruption. Among other things, the bill would provide that with respect to coverage for business interruption due to an order of civil authority, a rebuttable presumption applies that COVID-19 was present on property located within the geographical location covered by the order of civil authority and caused physical damage to that property which was the direct cause of the insured's business. The bill would define "civil authority" for these purposes to include any federal, state, or local government, or the governing body or duly constituted agencies of any federally recognized Indian tribe, and their instrumentalities, divisions, political subdivisions, enterprise boards, and business entities. The bill would prohibit COVID-19 from being construed as a pollutant or contaminant for purposes of any exclusion within a commercial insurance policy unless viruses are expressly included in that exclusion policy language. The bill would provide that it applies retroactively to all commercial insurance policies that provide coverage for business interruption that were in full force and effect on and after March 4, 2020.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law requires the Instructional Quality Commission to develop, and the State Board of Education to adopt, modify, or revise, a model curriculum in Native American studies. Existing law encourages, beginning in the school year following the adoption of the model curriculum, each school district and charter school that maintains any of grades 9 to 12, inclusive, that does not otherwise offer a standards-based Native American studies curriculum to offer a course of study in Native American studies based on the model curriculum. Existing law makes the implementation of these provisions subject to the receipt of funds for these purposes.~~

~~This bill would appropriate \$800,000 from the General Fund to the State Department of Education to fund the development by the commission of a model curriculum in Native American studies.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~yes~~^{no}. Fiscal committee: ~~yes~~^{no}. State-mandated local program: ~~no~~^{no}.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 12 (commencing with Section 10109) is
2 added to Part 1 of Division 2 of the Insurance Code, to read:

3

4

CHAPTER 12. COVERAGE FOR COVID-19

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6 10109. (a) With respect to a policy of commercial insurance
7 that provides coverage for business interruption, the following
8 rebuttable presumptions affecting the burden of proof apply in a
9 case in which the insured alleges that the business interruption
10 was due to the coronavirus 2019 (COVID-19) pandemic and
11 occurred during the period of the state of emergency declared by
12 the Governor due to the COVID-19 pandemic:

13 (1) With respect to coverage for general business interruption
14 and extra expenses, a rebuttable presumption applies that
15 COVID-19 was present on the insured's property and caused
16 physical damage to that property which was the direct cause of
17 the business interruption.

18 (2) With respect to coverage for business interruption due to
19 an order of civil authority, a rebuttable presumption applies that
20 COVID-19 was present on property located within the
21 geographical location covered by the order of civil authority and
22 caused physical damage to that property which was the direct
23 cause of the insured's business interruption.

24 (3) With respect to coverage for business interruption due to
25 impairment of ingress and egress, a rebuttable presumption applies
26 that COVID-19 was present on the property of a third party and
27 caused physical damage to that property which was the direct
28 cause that prevented the ingress and egress to the insured's
29 property and resulted in the insured's business interruption.

30 (b) For purposes of this section, "civil authority" includes any
31 federal, state, or local government, or the governing body or duly
32 constituted agencies of any federally recognized Indian tribe, and

1 *their instrumentalities, divisions, political subdivisions, enterprise*
2 *boards, and business entities.*

3 *(c) This section does not affect the applicability of any policy*
4 *provision, including any language addressing loss or damage*
5 *caused by a virus. However, COVID-19 shall not be construed as*
6 *a pollutant or contaminant for purposes of any exclusion within*
7 *a commercial insurance policy unless viruses are expressly*
8 *included in that exclusion policy language.*

9 *10109.1. The benefits of this chapter shall be retroactively*
10 *applied to all commercial insurance policies that provide coverage*
11 *for business interruption that were in full force and effect on and*
12 *after March 4, 2020, the date the Governor declared a state of*
13 *emergency related to the COVID-19 pandemic.*

14 *SEC. 2. This act is an urgency statute necessary for the*
15 *immediate preservation of the public peace, health, or safety within*
16 *the meaning of Article IV of the California Constitution and shall*
17 *go into immediate effect. The facts constituting the necessity are:*

18 *In order to protect the solvency of businesses that were forced*
19 *to close their doors or limit business due to the coronavirus disease*
20 *2019 (COVID-19) pandemic, it is necessary for this act to take*
21 *effect immediately.*

22 ~~SECTION 1. The sum of eight hundred thousand dollars~~
23 ~~(\$800,000) is hereby appropriated from the General Fund to the~~
24 ~~State Department of Education to fund the development by the~~
25 ~~Instructional Quality Commission of a model curriculum in Native~~
26 ~~American studies pursuant to Section 51226.9 of the Education~~
27 ~~Code.~~