



Rep. Jay Hoffman

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10000SB3174ham001

LRB100 19698 SMS 43489 a

1 AMENDMENT TO SENATE BILL 3174

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3174 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. If and only if Senate Bill 1737 of the 100th  
5 General Assembly becomes law in the form in which it passed  
6 both houses on May 31, 2018, then the Illinois Insurance Code  
7 is amended by changing Sections 534.3 and 534.4 as follows:

8 (215 ILCS 5/534.3) (from Ch. 73, par. 1065.84-3)

9 Sec. 534.3. Covered claim; unearned premium defined.

10 (a) "Covered claim" means an unpaid claim for a loss  
11 arising out of and within the coverage of an insurance policy  
12 to which this Article applies and which is in force at the time  
13 of the occurrence giving rise to the unpaid claim, including  
14 claims presented during any extended discovery period which was  
15 purchased from the company before the entry of a liquidation  
16 order or which is purchased or obtained from the liquidator

1 after the entry of a liquidation order, made by a person  
2 insured under such policy or by a person suffering injury or  
3 damage for which a person insured under such policy is legally  
4 liable, and for unearned premium, if:

5 (i) The company issuing, assuming, or being allocated  
6 the policy becomes an insolvent company as defined in  
7 Section 534.4 after the effective date of this Article; and

8 (ii) The claimant or insured is a resident of this  
9 State at the time of the insured occurrence, or the  
10 property from which a first party claim for damage to  
11 property arises is permanently located in this State or, in  
12 the case of an unearned premium claim, the policyholder is  
13 a resident of this State at the time the policy was issued;  
14 provided, that for entities other than an individual, the  
15 residence of a claimant, insured, or policyholder is the  
16 state in which its principal place of business is located  
17 at the time of the insured event.

18 (b) "Covered claim" does not include:

19 (i) any amount in excess of the applicable limits of  
20 liability provided by an insurance policy to which this  
21 Article applies; nor

22 (ii) any claim for punitive or exemplary damages; nor

23 (iii) any first party claim by an insured who is an  
24 affiliate of the insolvent company; nor

25 (iv) any first party or third party claim by or against  
26 an insured whose net worth on December 31 of the year next

1 preceding the date the insurer becomes an insolvent insurer  
2 exceeds \$25,000,000; provided that an insured's net worth  
3 on such date shall be deemed to include the aggregate net  
4 worth of the insured and all of its affiliates as  
5 calculated on a consolidated basis. However, this  
6 exclusion shall not apply to third party claims against the  
7 insured where the insured has applied for or consented to  
8 the appointment of a receiver, trustee, or liquidator for  
9 all or a substantial part of its assets, filed a voluntary  
10 petition in bankruptcy, filed a petition or an answer  
11 seeking a reorganization or arrangement with creditors or  
12 to take advantage of any insolvency law, or if an order,  
13 judgment, or decree is entered by a court of competent  
14 jurisdiction, on the application of a creditor,  
15 adjudicating the insured bankrupt or insolvent or  
16 approving a petition seeking reorganization of the insured  
17 or of all or substantial part of its assets; nor

18 (v) any claim for any amount due any reinsurer,  
19 insurer, insurance pool, or underwriting association as  
20 subrogated recoveries, reinsurance recoverables,  
21 contribution, indemnification or otherwise. No such claim  
22 held by a reinsurer, insurer, insurance pool, or  
23 underwriting association may be asserted in any legal  
24 action against a person insured under a policy issued by an  
25 insolvent company other than to the extent such claim  
26 exceeds the Fund obligation limitations set forth in

1 Section 537.2 of this Code.

2 (c) "Unearned Premium" means the premium for the unexpired  
3 period of a policy which has been terminated prior to the  
4 expiration of the period for which premium has been paid and  
5 does not mean premium which is returnable to the insured for  
6 any other reason.

7 (Source: P.A. 89-97, eff. 7-7-95; 90-499, eff. 8-19-97.)

8 (215 ILCS 5/534.4) (from Ch. 73, par. 1065.84-4)

9 Sec. 534.4. "Insolvent company" means a company organized  
10 as a stock company, mutual company, reciprocal or Lloyds (a)  
11 which holds a certificate of authority to transact insurance in  
12 this State either at the time the policy was issued or when the  
13 insured event occurred, or any company which has assumed or has  
14 been allocated such policy obligation through merger,  
15 division, consolidation, or reinsurance, whether or not such  
16 assuming company held a certificate of authority to transact  
17 insurance in this State at the time such policy was issued or  
18 when the insured event occurred; and (b) against which a final  
19 Order of Liquidation with a finding of insolvency to which  
20 there is no further right of appeal has been entered by a court  
21 of competent jurisdiction in the company's State of domicile  
22 after the effective date of this Article.

23 (Source: P.A. 90-499, eff. 8-19-97.)

24 Section 99. Effective date. This Act takes effect upon

1 becoming law or on the date Senate Bill 1737 of the 100th  
2 General Assembly becomes law, whichever is later.".