

**SENATE, No. 3060**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED OCTOBER 22, 2020

**Sponsored by:**

**Senator JAMES W. HOLZAPFEL**

**District 10 (Ocean)**

**Senator JOSEPH PENNACCHIO**

**District 26 (Essex, Morris and Passaic)**

**Co-Sponsored by:**

**Senator Cardinale**

**SYNOPSIS**

Authorizes payment of just compensation to businesses for losses due to public health emergency closures.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/19/2020)**

1 AN ACT concerning just compensation for businesses closed by  
2 public health emergency and supplementing Title 26 of the  
3 Revised Statutes.

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5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

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8 1. a. An order declaring a public health emergency, pursuant  
9 to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1  
10 et seq.), that requires a business to partially or completely close  
11 shall be a public purpose for which the State may be compelled to  
12 exercise condemnation and pay just compensation.

13 b. An owner of a business that is ordered to partially or  
14 completely close under a public health emergency may bring an  
15 action to compel condemnation and the payment of just  
16 compensation for:

17 (1) loss of income during, and for a reasonable period of time  
18 after, a temporary partial or complete closure of the business that  
19 would not have occurred but for compliance with the order; or

20 (2) loss of going concern, including the loss of real property, if  
21 the closure of the business results in the owner going out of  
22 business and the owner proves the owner would not have gone out  
23 of business but for compliance with the order.

24 c. An owner shall have the burden of proving that the alleged  
25 loss is due to the public health emergency and the burden of  
26 proving the amount of compensation for losses.

27 d. An action to compel condemnation and the payment of just  
28 compensation brought under this section shall be filed within one  
29 year of the expiration of the order that declared or renewed the  
30 public health emergency.

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32 2. This act shall take effect immediately and be applicable to a  
33 public health emergency declared on or after January 1, 2020.

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#### STATEMENT

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38 This bill provides that the closure of a business due to an order  
39 declaring a public health emergency is a public purpose for which  
40 the State may have to pay the business owner just compensation.  
41 Under the bill, the owner of a business may bring an action to  
42 compel the State to exercise condemnation and to pay just  
43 compensation for either:

- 44 • loss of income during, and for a reasonable time after, a  
45 temporary partial or complete closure of the business, if the  
46 business would not have closed but for compliance with the  
47 order; or

**S3060 HOLZAPFEL, PENNACCHIO**

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- 1       • loss of going concern, including the loss of real property, if  
2       the closure of the business results in the owner going out of  
3       business and the owner proves the owner would not have  
4       gone out of business but for compliance with the order.
- 5       The bill would assign to the business owner: the burden of  
6       proving that the alleged loss is due to the public health emergency;  
7       and the burden of proving the amount of compensation for losses.
- 8       The bill provides that it's provisions would apply to a public  
9       health emergency declared on or after January 1, 2020. An action  
10      to compel condemnation and the payment of just compensation  
11      brought under the bill must be filed within one year of the  
12      expiration of the order that declared or renewed the public health  
13      emergency.