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(Original Signature of Member)

116TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To make available insurance coverage for business interruption losses due to national emergencies, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. FITZPATRICK introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To make available insurance coverage for business interruption losses due to national emergencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Never Again Small  
5 Business Protection Act of 2020”.

1 **SEC. 2. REQUIRED AVAILABILITY OF COVERAGE FOR BUSI-**  
2 **NESS INTERRUPTION LOSSES DUE TO NA-**  
3 **TIONAL EMERGENCIES.**

4 Effective only upon the publication of certification by  
5 the Secretary of the Treasury pursuant to section 5 and  
6 subject to sections 3 and 4, each insurer that offers or  
7 makes available business interruption insurance coverage  
8 shall make available, to for-profit and nonprofit businesses  
9 and other entities, optional additional coverage that—

10 (1) covers solely losses that—

11 (A) result from business interruption due  
12 to any order, by any officer or agency of the  
13 Federal Government or of any State or local  
14 government, requiring cessation of operations  
15 during a national emergency; and

16 (B) occur in any area to which such na-  
17 tional emergency applies and during the period  
18 of such application; and

19 (2) covers such losses for a continuous period  
20 that begins upon the declaration of the national  
21 emergency and is not shorter 30 days.

22 **SEC. 3. LIMITATION.**

23 Coverage provided pursuant to section 2 shall not  
24 cover any losses of any insured business which has, during  
25 the period that the national emergency is in effect—

1           (1) involuntarily terminated the employment of  
2           any employee of the insured business; or

3           (2) terminated the health care insurance cov-  
4           erage, if provided, for any employee of the insured  
5           business.

6 **SEC. 4. TREATMENT OF EXCLUSIONS.**

7           A contract for business interruption insurance cov-  
8           erage may exclude coverage for business interruptions re-  
9           sulting from national emergencies only if—

10           (1) the insurer has received a written statement  
11           from the insured that affirmatively authorizes such  
12           exclusion; or

13           (2) the insured fails to pay any premium  
14           charged by the insurer for providing such coverage.

15 **SEC. 5. STUDY REGARDING ESTABLISHMENT OF FEDERAL**  
16 **BACKSTOP.**

17           The Federal Advisory Committee on Insurance estab-  
18           lished by the Secretary of the Treasury pursuant to sec-  
19           tion 313(h) of title 31, United States Code, shall conduct  
20           a study regarding the effectiveness and efficiency of using  
21           a Federal backstop mechanism, private equity pools, risk  
22           assessments, and market pricing to reinsure insurers for  
23           excessive losses under coverage made available pursuant  
24           to section 2 of this Act. The Committee shall submit to  
25           the Congress a report setting forth the findings of the

1 study not later than the expiration of the 180-day period  
2 beginning on the date of the enactment of this Act.

3 **SEC. 6. EFFECTIVE DATE.**

4       Upon a determination that there is in effect a Federal  
5 backstop mechanism to reinsure insurers for excessive  
6 losses under coverage made available pursuant to section  
7 2 of this Act, the Secretary of the Treasury shall issue  
8 a certification that such mechanism is in place, and cause  
9 such certification to be published in the Federal Register.

10 **SEC. 7. DEFINITIONS.**

11       For purposes of this section, the following definitions  
12 shall apply:

13           (1) BUSINESS INTERRUPTION INSURANCE COV-  
14 ERAGE.—The term “business interruption insur-  
15 ance coverage” means property and casualty insur-  
16 ance coverage provided or made available for losses  
17 resulting from periods of suspended business oper-  
18 ations, whether provided under broader coverage or  
19 separately.

20           (2) INSURER.—The term “insurer” has the  
21 meaning given such term in section 102 of the Ter-  
22 rorism Risk Insurance Act of 2002 (15 U.S.C. 6701  
23 note).

24           (3) NATIONAL EMERGENCY.—The term “na-  
25 tional emergency” means any—

1           (A) emergency or disaster declared by the  
2           President pursuant to the Robert T. Stafford  
3           Disaster Relief and Emergency Assistance Act  
4           (42 U.S.C. 5121 et seq.); or

5           (B) public health emergency declared by  
6           the Secretary of Health and Human Services  
7           pursuant to section 319 of the Public Health  
8           Service Act (42 U.S.C. 247d).