

Congress of the United States
House of Representatives
Washington, DC 20515

April _ , 2020

The Honorable Donald J. Trump
President of the United States of America
The White House 1600 Pennsylvania Ave. NW
Washington, DC 20050

Dear Mr. President:

We write to thank you for your leadership in addressing the COVID-19 epidemic and for your Administration's decisive actions to sustain businesses through the crisis so hardworking Americans have jobs to return to once the public health crisis has passed. Your actions demonstrate an understanding that the *speed* of assistance is critical in providing our constituent companies the lifeline they need to continue operations and keep employees on the payroll. With this in mind, we write to comment on recent proposals relating to business interruption insurance (BI) policies.

As you know, BI policies help businesses replace income lost by a covered peril and pay for extra expenses, often resulting from wind, fires, hail or natural disasters that inflict physical property damage. These policies typically mandate that claims result from physical damage and exclude pandemic risk. Like other lines of insurance, insurers are required by state regulators to set aside the loss reserves necessary for paying out *anticipated* BI claims and making policyholders whole. Importantly, insurers have not charged businesses for this coverage and consequently insurers have not reserved funds to pay out these claims. In their April 10, 2020 letter addressed to you, our Senate Banking Committee colleagues were right to emphasize the National Association of Insurance Commissioners' (NAIC) concerns that proposals to retroactively cover excluded policies could jeopardize insurers' solvency and endanger other policyholders, stating that:

“Insurance works well and remains affordable when a relatively small number of claims are spread across a broader group, and therefore it is not typically well suited for a global pandemic where virtually every policyholder suffers significant losses at the same time for an extended period. While the U.S. insurance sector remains strong, if insurance companies are required to cover such claims, such an action would create substantial solvency risks for the sector, significantly undermine the ability of insurers to pay other types of claims, and potentially exacerbate the negative financial and economic impacts the country is currently experiencing.¹”

¹ https://content.naic.org/article/statement_naic_statement_congressional_action_relatng_covid_19.htm

Should lawmakers retroactively void exclusions, this would force insurers to pay claims they never priced or collected premiums for and would cost between \$255-431 billion in claims *per month* according to one industry estimate². These payments would require using the reserves of other policyholders for protection against risks such as fire, wind, hail, tornados, and hurricanes. Additionally, because these reserves will drain rapidly due to the size and scope of losses, this would put insurers' solvency at risk and destabilize financial markets. By introducing a significant new risk that must ultimately be paid for by policyholders, such actions could also endanger the *future* market for standard BI policies that businesses rely on to resume their operations after sustaining physical damage from natural disasters, or more common interruptions caused by fires or water damage. This would leave our nation's small businesses without a critical form of protection and support they currently have.

Your Administration has moved with unprecedented speed to assist America's workers in a time of great need. But proponents of retroactive BI coverage fail to recognize another major flaw--- namely that such an approach will confront serious and time-consuming legal challenges which might result in litigated payments never materializing in the first place, or slow payments to the point they arrive too late to help a business survive the current crisis.

Fortunately, there are realistic actions we can take now to provide businesses with meaningful and needed relief. First and foremost, the Democrat leadership in Congress should answer your call to increase capacity for the bipartisan Paycheck Protection Program (PPP). Doing so will ensure all eligible applicants have access to the resources they need to keep employees on the payroll through these difficult times. We are also pleased by the Treasury and the Federal Reserve's April 9, 2020, launch of the Main Street Business Lending Program, which will provide significant assistance to employers that are too large to qualify for the PPP.

The speed and scale at which relief efforts are being developed will inevitably reveal opportunities to improve their design and implementation. Congress should be working on these solutions, rather than pursuing efforts that destabilize insurance markets and would only work against the goal of providing critical assistance to small businesses in the most timely manner possible. We stand ready to partner with you to make any improvements necessary to ensure America's businesses can weather the current crisis and we are grateful for your leadership during these challenging times.

Sincerely,

² <http://www.pciaa.net/pciwebsite/cms/content/viewpage?sitePageId=60052>

