

May 3, 2020

Secretary to the Council
The Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Ave NW
Washington, D.C. 20004

Re: **May 5th Council Legislative Meeting -- Coronavirus Omnibus
Emergency Declaration Resolution of 2020/Coronavirus Omnibus
Emergency Amendment Act of 2020:
Section 2. Business Interruption Insurance**

Dear Secretary:

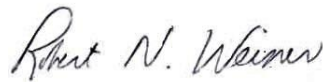
On behalf of the American Property Casualty Insurance Association (APCIA), we request an opportunity to present a witness at the May 5th Legislative Meeting to present to the Council the important and urgent perspective on the constitutional infirmity of Section 2 of Coronavirus Omnibus Emergency Declaration Resolution of 2020, which seeks to impose retroactive liability on all licensed insurers that wrote current business interruption policies.

Attached is a white paper co-authored by Bryce Friedman and Isaac Rethy of Simpson Thacher & Bartlett LLP and me explaining the constitutional limits on a legislative body seeking to retroactively expand insurance coverage for such pandemic exposure. We are authorized to report that former DC Attorney General Irvin Nathan agrees with the conclusion of this paper that the proposed legislation violates the U.S.

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constitutional provisions that prohibit states from impairing the obligation of contracts and from depriving private parties of their property without due process or just compensation.

Respectfully Submitted,



Robert Weiner

Enclosure

Cc. w/enc: Mayor Bowser
DC Council Members
Attorney General Racine
John Terkazen
Abram J. Ellis
Bryce L. Friedman