

OFFICE OF
MARY M. CHEH

Councilmember, Ward 3 | Chair, Committee on Transportation & the Environment

MEMORANDUM

TO: Chairman Phil Mendelson
FROM: Councilmember Mary M. Cheh
DATE: June 30, 2020
SUBJECT: Requests for the July 7, 2020 Legislative Meeting

We request that the following emergency and temporary measures be agendized at the July 7, 2020 Legislative Meeting:

- Commercial Insurance Physical Loss of Property Claim Tolling Emergency Act of 2020
- Commercial Insurance Physical Loss of Property Claim Tolling Temporary Act of 2020
- Commercial Insurance Physical Loss of Property Claim Tolling Emergency Declaration Resolution of 2020

On March 11, 2020, the Mayor declared a public health emergency in the District due to the imminent threat to the health, safety, and welfare of District residents posed by COVID-19. As a result of the public health emergency, businesses across the District were forced to close or reduce operations to prevent the spread of the virus. Where businesses face losses stemming from the public health emergency—such as lost business income, operating expenses, relocation costs, payroll, taxes, loan payments, and other related costs—those losses may be compensated as business interruption losses, covered under most commercial insurance policies. These policies include terms that set deadlines for notice, proof of loss forms, and responses to requests for information and documents. Where many insurance carriers are broadly denying claims for business interruption losses, businesses will need to appeal those decisions.

However, due to financial and administrative hardships stemming from the public health emergency, a number of businesses do not have the resources to identify and meet these deadlines; many business owners sensibly have prioritized making payroll, paying rent, and covering other day-to-day business expenses necessary to ensure the continuation of operations, rather than using their limited revenues to engage an attorney or other representative to review insurance policies and provide legal representation for a claim. In addition, certain deadlines may have passed, unknown to the policy holder, in the beginning

weeks and months of the COVID-19 emergency, a time when business owners were unaware of the extent of the emergency and its impact on their businesses.

This emergency legislation would toll all commercial insurance policy deadlines, as they relate to claims or appeals of decisions related to business interruption losses, for the length of the public emergency plus 90 days. This change will help ensure that arbitrary deadlines do not prohibit the District's struggling businesses from filing or appealing claims for losses due to business interruption. To note, tolling of these deadlines will not affect whether a business loss qualifies for compensation under a given policy; rather, this change will ensure that businesses are provided the time necessary to review their policies, file any claims, and meet requirements to appeal any claim denials.

Draft copies of the legislation are attached. Please contact Michael Porcello at (202) 724-8062 or mporcello@dccouncil.us if you have any questions.