

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to require, for the length of the public health emergency and for 90 days thereafter, the tolling of all time periods for holders of a commercial insurance policy to exercise their rights under the policy or District law for claims for physical loss of property.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commercial Insurance Physical Loss of Property Claim Tolling Emergency Declaration Resolution of 2020”.

Sec. 2. (a) On March 11, 2020, the Mayor issued Mayor’s Order 2020-046, declaring 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.

(b) As a result of the public health emergency, businesses across the District were forced to close or reduce operations to prevent the spread of COVID-19. Even now, as the District enters Phase 2 of the Reopen DC Plan, many businesses are restricted in how they may offer on-site services to residents, including occupancy limits, requirements for outdoor queueing, and other limitations tailored to protect the health and safety of residents.

(c) A number of businesses in the District carry commercial insurance policies that include coverage for business interruptions. This coverage replaces business income lost in event of a disaster or other unanticipated event; however, the specific events covered may differ from

32 policy to policy. In addition to lost income, business interruption insurance typically also covers
33 operating expenses, relocation costs, payroll, taxes, loan payments, and other related costs.

34 (d) Since the public health emergency began, businesses have reported that certain
35 insurance carriers are universally denying business interruption claims and similar claims; to
36 appeal these claims, business will be required to file suit against the insurer. Policies typically
37 include terms in the fine print that set deadlines for notice, proof of loss forms, and responses to
38 requests for information and documents.

39 (f) Due to financial and administrative hardships stemming from the public health
40 emergency, a number of businesses may not have the resources to identify and meet these
41 deadlines; certainly, many business owners sensibly have prioritized making payroll, paying rent,
42 and covering other day-to-day business expenses necessary to ensure the continuation of
43 operations, rather than using their limited revenues to engage an attorney or other appropriate
44 representative to review insurance policies and provide legal representation for a claim. In
45 addition, certain deadlines may have passed, unknown to the policy holder, in the beginning
46 weeks and months of the COVID-19 emergency, a time when business owners were unaware of
47 the extent of the emergency and its impact on their businesses.

48 (g) The Council must act to ensure that arbitrary deadlines built into commercial
49 insurance policies do not prohibit the District's struggling businesses from filing or appealing
50 claims for losses due to business interruption. Tolling these deadlines for the length of the public
51 health emergency, plus 90 days, will ensure that businesses are provided appropriate time to
52 review their policies, file any claims, and meet requirements to appeal any claim denials.

53 (h) Emergency legislation is needed to require, for the length of the public health
54 emergency and for 90 days thereafter, the tolling of all time periods for holders of a commercial

55 insurance policy to exercise their rights under the policy or District law for claims for physical
56 loss of property.

57 Sec. 3. The Council of the District of Columbia determines that the circumstances
58 enumerated in section 2 constitute emergency circumstances making it necessary that the
59 Commercial Insurance Physical Loss of Property Claim Tolling Emergency Act of 2020 be
60 adopted after a single reading.

61 Sec. 4. This resolution shall take effect immediately.