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Councilmember Mary M. Cheh

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5 A PROPOSED RESOLUTION  
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9 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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14 To declare the existence of an emergency with respect to the need to require, for the length of the  
15 public health emergency and for 90 days thereafter, the tolling of all time periods for  
16 holders of a commercial policy of insurance to exercise their rights under the policy or  
17 District law for losses covered under the existing policy.

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

21 Sec. 2. (a) On March 11, 2020, the Mayor issued Mayor’s Order 2020-046, declaring a  
22 public health emergency in the District due to the imminent threat to the health, safety, and  
23 welfare of District residents posed by COVID-19.

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

29 (c) A number of businesses in the District carry commercial insurance policies that  
30 include coverage for business interruptions. This coverage replaces business income lost in event  
31 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 (e) 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 (f) 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 (g) 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 losses covered under  
56 their existing policy.

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 Claim Tolling Emergency Act of 2020 be adopted after a single reading.

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