

Congress of the United States
Washington, DC 20515

May 4, 2020

The Honorable Muriel Bowser
Mayor
Executive Office of the Mayor
1350 Pennsylvania Avenue NW, Suite 316
Washington, D.C. 20004

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 504
Washington, D.C. 20004

Dear Mayor Bowser and Chairman Mendelson:

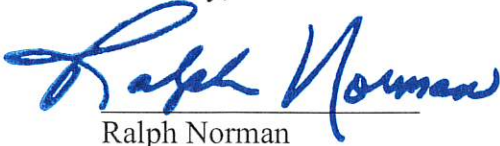
As members of the House Committee on Oversight and Reform and Appropriations, we are writing to express our serious concerns with the “Coronavirus Omnibus Emergency Amendment Act of 2020,” which is pending before the D.C. Council. We believe strongly that the business interruption insurance provisions in this legislation are unconstitutional and will threaten the long-term availability of insurance in Washington, D.C. (D.C.). This outcome would directly harm the city’s residents and would likely require direct and significant congressional intervention.

Among other provisions, the legislation would require insurers to retroactively amend contracts to provide for business interruption coverage for businesses below a certain size, regardless of any specific policy language. Forcing insurers to pay for losses that are not covered by contract and for which they never collected premium is merely shifting the burden from one party to another with no basis in fact or legality. This move by the D.C. Council will drive up the cost of insurance and call into question whether contracts in the city are worth the paper on which they are written. There is a reason that the founders of our great nation, in drafting the Constitution, prohibited states and the federal government from retroactively amending contracts—because they understood that all well-functioning governments and legal systems rest on the sanctity of contract.

In addition to seriously undermining contract law, the legislation would significantly strain the solvency of insurers who are forced to pay uninsured losses and directly harm D.C. policyholders who experience losses that are covered by contract. For example, if this bill is enacted, D.C. businesses who have protection from hurricanes, fires, and other perils that are covered by business interruption insurance could find that insurers forced to pay uninsured losses lack the loss reserves to cover their claims. Further, any move to require insurers to cover all perils in business interruption coverage would make such coverage unaffordable for D.C. businesses.

The legislation before the D.C. Council will harm policyholders and likely lead to those businesses and the D.C. government seeking a bailout from Congress—an entirely unavoidable outcome. We urge you and the other Council members to table this harmful legislation and look forward to your prompt written response.

Sincerely,



Ralph Norman
Member of Congress



Clay Higgins
Member of Congress



Bob Gibbs
Member of Congress



Glenn Grothman
Member of Congress



Andy Harris, M.D.
Member of Congress



Carol D. Miller
Member of Congress



Paul A. Gosar, D.D.S.
Member of Congress

CC:

The Honorable Anita Bonds
The Honorable Elissa Silverman
The Honorable David Grosso
The Honorable Robert C. White, Jr.
The Honorable Brianne K. Nadeau
The Honorable Charles Allen
The Honorable Mary Cheh
The Honorable Vincent Gray
The Honorable Brandon Todd
The Honorable Trayon White, Sr.
The Honorable Kenyon R. McDuffie
Commissioner Karima Woods, Department of Insurance, Securities and Banking
Attorney General Karl A. Racine