To establish a temporary voluntary program for support of insurers providing business interruption insurance coverage during the COVED–19 pandemic, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES
JUNE 26, 2020
Mr. THOMPSON of California introduced the following bill; which was referred to the Committee on Financial Services

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A BILL
To establish a temporary voluntary program for support of insurers providing business interruption insurance coverage during the COVED–19 pandemic, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Business Interruption Relief Act of 2020”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—
(1) mandatory civil authority shutdowns as a result of the coronavirus disease 2019 (COVID-19) have adversely impacted businesses throughout the United States;

(2) the American economy relies in part upon an investment in and expectation of insurance benefits that back business assets and the workforce;

(3) many businesses have paid policy premiums for business interruption coverage and, in particular, for coverage for civil authority shutdowns of businesses;

(4) many businesses that purchased business interruption coverage and coverage for civil authority shutdowns did so in the expectation that insurance would protect a temporary shutdown of their workforce, prevent layoffs and furloughs, and allow an orderly restart of operations; and

(5) State laws mandate an orderly and prompt payment of first party insurance claims and insurers have claim management resources with the expertise and skills to timely manage claims payment and distribution of funds according to expected and relied upon guidelines and procedures that policyholders had the expectation to receive.

(b) PURPOSES.—The purposes of this Act are—
(1) to establish a program to encourage and provide support for insurers who timely pay claims under business interruption coverage to policyholders adversely affected by civil authority shutdowns resulting from the COVID-19 pandemic; and

(2) to establish the program in a manner that ensures that—

(A) carriers that sold policies that cover businesses interruption losses for COVID-19 do not receive any Federal windfall; and

(B) carriers that sold policies that express- expressly exclude coverage for a virus or pan- demic for COVID-19 can avoid costly litigation with policyholders, and policyholders may re- ceive policy benefits to compensate for govern- ment shutdown and business interruption.

SEC. 3. PUBLIC/PRIVATE PARTNERSHIP BUSINESS INTER- RUPTION INSURANCE RELIEF PROGRAM FOR COVID-19.

(a) E STABLISHMENT.—There is established in the Department of the Treasury the Business Interruption Relief Program.

(b) V OLUNTARY.—Participation in the Program on the part of an insurer shall be voluntary at the option of the insurer.
(c) Eligible Policies.—To be eligible to participate in the Program, an insurer shall have, as of the date of initial participation in the Program, one or more outstanding and existing policies of insurance issued to a policyholder for business interruption insurance coverage that—

(1) expressly include coverage for losses during any period of time that any civil authority shutdown as a result of the COVID-19 pandemic is in effect; and

(2) expressly exclude coverage for a “virus”.

(d) Assistance.—

(1) Reimbursement for Payment of Claims.—Under the Program, the Secretary shall provide financial assistance to reimburse any participating insurer that voluntarily pays benefits under an eligible policy for COVID-19 losses, thereby waiving the exclusion referred to in subsection (c)(2), in the amount of—

(A) the benefit to be paid in accordance with all terms of the policy; plus

(B) any expenses incurred by the participating insurer relating to paying such claim.

(2) Prohibition.—The Program shall provide no benefit or reimbursement for an insurer’s pay-
ment and claim expenses for benefits paid under any policy for business interruption coverage that does not expressly exclude coverage for a “virus”.

(3) TREATMENT OF RIGHTS AND DUTIES.—

(A) POLICYHOLDERS.—Policyholders under policies for which reimbursement is provided under the Program shall retain all first party rights to policies for business interruption insurance coverage.

(B) STATE LAW.—Participation in the Program by an insurer shall not supersede or replace any rights of good faith and fair duty under State insurance law.

(4) COMPLIANCE.—The Secretary shall take any such actions as may be necessary, before providing any assistance pursuant to paragraph (1) to a participating insurer, that the participating insurer makes payment to policyholders in compliance with the terms and conditions of the policies referred to in subsection (c).

(e) LIMITATION ON ASSISTANCE FOR A PARTICIPATING INSURER.—The Secretary shall limit the amount of assistance provided for a participating insurer under the Program under this section according to the limits of the eligible policies involved.
(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BUSINESS INTERRUPTION INSURANCE COVERAGE.—The term “business interruption insurance coverage” means property and casualty insurance coverage provided or made available for losses resulting from periods of suspended business operations, whether provided under broader coverage or separately.

(2) CIVIL AUTHORITY SHUTDOWN.—The term “civil authority shutdown” means forced closure of businesses, or evacuation, by mandate, law, or order of any State or local government or governmental officer or agency.

(3) COVID-19 LOSSES.—The term “COVID-19 losses” means for losses resulting from business interruption due to a civil authority shutdown as a result of the COVID-19 pandemic.

(4) ELIGIBLE POLICY.—The term “eligible policy” means a policy for business interruption insurance coverage described in section 3(c).

(5) INSURER.—The term “insurer” has the meaning given such term in section 102 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note).
(6) Participating insurer.—The term “participating insurer” means an insurer that—

(A) has voluntarily elected, in accordance with such procedures and requirements as the Secretary shall establish, to participate in the Program; and

(B) is in compliance with the requirements under this section for participation in the Program.

(7) Program.—The term “Program” means the Business Interruption Relief Program established under this section.

(g) Regulations.—The Secretary shall issue any regulations necessary to carry out the Program.

(h) Funding.—There is authorized to be appropriated such sums as may be necessary for providing financial assistance under the Program to participating insurers.