H. R. 6497

To make available insurance coverage for business interruption losses due
to national emergencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

April 14, 2020

Mr. FITZPATRICK (for himself, Mr. CISNEROS, Mr. HURD of Texas, and Mr. SUOZZI) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To make available insurance coverage for business interruption losses due to national emergencies, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as the “Never Again Small
5 Business Protection Act of 2020”.

SEC. 2. REQUIRED AVAILABILITY OF COVERAGE FOR BUSINESS INTERRUPTION LOSSES DUE TO NATIONAL EMERGENCIES.

Effective only upon the publication of certification by the Secretary of the Treasury pursuant to section 5 and subject to sections 3 and 4, each insurer that offers or makes available business interruption insurance coverage shall make available, to for-profit and nonprofit businesses and other entities, optional additional coverage that—

(1) covers solely losses that—

(A) result from business interruption due to any order, by any officer or agency of the Federal Government or of any State or local government, requiring cessation of operations during a national emergency; and

(B) occur in any area to which such national emergency applies and during the period of such application; and

(2) covers such losses for a continuous period that begins upon the declaration of the national emergency and is not shorter than 30 days.

SEC. 3. LIMITATION.

Coverage provided pursuant to section 2 shall not cover any losses of any insured business which has, during the period that the national emergency is in effect—
(1) involuntarily terminated the employment of any employee of the insured business; or
(2) terminated the health care insurance coverage, if provided, for any employee of the insured business.

SEC. 4. TREATMENT OF EXCLUSIONS.

A contract for business interruption insurance coverage may exclude coverage for business interruptions resulting from national emergencies only if—

(1) the insurer has received a written statement from the insured that affirmatively authorizes such exclusion; or
(2) the insured fails to pay any premium charged by the insurer for providing such coverage.

SEC. 5. STUDY REGARDING ESTABLISHMENT OF FEDERAL BACKSTOP.

The Federal Advisory Committee on Insurance established by the Secretary of the Treasury pursuant to section 313(h) of title 31, United States Code, shall conduct a study regarding the effectiveness and efficiency of using a Federal backstop mechanism, private equity pools, risk assessments, and market pricing to reinsure insurers for excessive losses under coverage made available pursuant to section 2 of this Act. The Committee shall submit to the Congress a report setting forth the findings of the
study not later than the expiration of the 180-day period
beginning on the date of the enactment of this Act.

SEC. 6. EFFECTIVE DATE.

Upon a determination that there is in effect a Federal
backstop mechanism to reinsure insurers for excessive
losses under coverage made available pursuant to section
2 of this Act, the Secretary of the Treasury shall issue
a certification that such mechanism is in place, and cause
such certification to be published in the Federal Register.

SEC. 7. DEFINITIONS.

For purposes of this section, the following definitions
shall apply:

(1) BUSINESS INTERRUPTION INSURANCE COV-
ERAGE.—The term “business interruption insurance
coverage” means property and casualty insurance
coverage provided or made available for losses result-
ing from periods of suspended business operations,
whether provided under broader coverage or sepa-
rately.

(2) INSURER.—The term “insurer” has the
meaning given such term in section 102 of the Ter-
note).

(3) NATIONAL EMERGENCY.—The term “na-
tional emergency” means any—
(A) emergency or disaster declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

(B) public health emergency declared by the Secretary of Health and Human Services pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247d).