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TO: The Honorable Detroit City Council

FROM: David D. Whitaker *DW*
Legislative Policy Division Staff

DATE: March 23, 2020

RE: RESOLUTION URGING THE STATE LEGISLATURE TO PASS
LEGISLATION OR GOV. WHITMER TO ISSUE AN EXECUTIVE ORDER,
THAT REQUIRE INSURERS TO PAY FOR BUSINESS INTERRUPTION
CLAIMS CAUSED FROM THE COVID-19 OUTBREAK

On March 19, 2020, the Honorable Council President Brenda Jones requested that the Legislative Policy Division to draft a resolution urging the state legislature to pass legislation or Gov. Whitmer to issue an executive order that mandates insurers to pay business interruption claims caused by the COVID-19 outbreak.

Attached, please find our draft of the resolution and contact us if we can be of any further assistance.

BY THE HONORABLE COUNCIL PRESIDENT BRENDA JONES

RESOLUTION URGING THE STATE LEGISLATURE TO PASS LEGISLATION OR GOV. WHITMER TO ISSUE AN EXECUTIVE ORDER, THAT REQUIRE INSURERS TO PAY FOR BUSINESS INTERRUPTION CLAIMS CAUSED FROM THE COVID-19 OUTBREAK

WHEREAS, The mission of the Detroit City Council is to promote the economic, cultural and physical welfare of Detroit's citizens through Charter-mandated legislative functions; and

WHEREAS, State officials are forced to use extraordinary measures to contain the spread of the COVID-19 harmful virus, for which there is no vaccine available; and

WHEREAS, On March 21st Gov. Whitmer issued an executive order, which took effect on Sunday, clarifying that all businesses providing "non-essential personal care services" must close through April 13; and

WHEREAS, In the City of Detroit, "non-essential personal care services" are small businesses that not only provide opportunities for entrepreneurs to create meaningful jobs; small businesses foster local economies by keeping money close to home and supporting the surrounding neighborhood; and

WHEREAS, In 2015, a survey conducted by Nationwide Insurance found that 66% of small businesses lack business interruption (BI) coverage, but more importantly, business interruption insurance does not cover losses suffered by a virus; and

WHEREAS, Following the SARS outbreak in 2003, insurance companies revised their business interruption policies to exclude lost revenue due to communicable diseases. This means that in order for small business to make a successful claim, a BI policy would probably need to contain a pre-negotiated communicable disease provision; and

WHEREAS, Most BI claims are triggered by quantifiable physical damage to the insured place of business, the damage caused by contagious disease can be difficult to quantify; and

WHEREAS, As part of efforts to help the economy recover, Assemblyman Roy Freiman, a Democrat from New Jersey, introduced a bill on Monday that would force insurers to cover business interruption claims caused by COVID-19. The bill, if passed would apply to companies with less than 100 employees and work at least 25 hours per week; and

WHEREAS, Our city braces for an uptick in confirmed cases of COVID-19, and small business losses accumulate, it is unclear how many small businesses in our city have business interruption insurance that has the communicable disease provision; and

WHEREAS, It remains to be seen how long big business can absorb losses in the current economic environment, yet, it is understood that if small businesses do not get assistance from their representatives, they and their employees will face dire consequences, which would retard the economic progress and vitality that our city was experiencing prior to the COVID-19 outbreak. **NOW THEREFORE BE IT**

RESOLVED, That the Detroit City Council strongly urge the state legislature to pass legislation or Gov. Whitmer to issue an executive order, that mandates insurers to pay for business interruption claims caused from the COVID-19 outbreak. **BE IT FINALLY**

RESOLVED, That copies of this resolution be transmitted to Gov. Whitmer, the Michigan Senate Committees on Insurance and Banking, and Regulatory Reform, the Michigan House Committees on Insurance and Regulatory Reform and the Detroit delegation in the Michigan Legislature.