

116TH CONGRESS
2D SESSION

H. R. 7011

To establish a Pandemic Risk Reinsurance Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2020

Mrs. CAROLYN B. MALONEY of New York (for herself, Mr. THOMPSON of California, Ms. NORTON, Ms. DELAUR, Ms. JACKSON LEE, Ms. PINGREE, Mr. COURTNEY, Mr. ROSE of New York, Mr. CISNEROS, Mr. GONZALEZ of Texas, Ms. PORTER, Mr. TED LIEU of California, Miss RICE of New York, Mr. GREEN of Texas, Mr. MORELLE, Mr. MEEKS, Ms. WILD, Mr. RYAN, Ms. TITUS, Ms. MENG, and Mr. DANNY K. DAVIS of Illinois) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To establish a Pandemic Risk Reinsurance Program, 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 “Pandemic Risk Insur-
5 ance Act of 2020”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to establish a Federal pro-
8 gram that provides for a transparent system of shared

1 public and private compensation for business interruption
2 losses resulting from a pandemic or outbreak of commu-
3 nicable disease, in order to—

4 (1) protect consumers by addressing market
5 disruptions and ensure the continued widespread
6 availability and affordability of business interruption
7 coverage for losses resulting from a pandemic or
8 outbreak of communicative disease; and

9 (2) allow for a transitional period for the pri-
10 vate markets to stabilize, resume pricing of such in-
11 surance, and build capacity to absorb any future
12 losses, while preserving State insurance regulation
13 and consumer protections.

14 **SEC. 3. DEFINITIONS.**

15 In this Act, the following definitions shall apply:

16 (1) COVERED PUBLIC HEALTH EMERGENCY.—

17 (A) IN GENERAL.—The term “covered
18 public health emergency” means any outbreak
19 of infectious disease or pandemic—

20 (i) for which an emergency is de-
21 clared, on or after January 1, 2021, under
22 the Public Health Service Act; and

23 (ii) that is certified by the Secretary
24 of Health and Human Services, as a public
25 health emergency.

(B) NONDELEGATION.—The Secretary may not delegate or designate to any other officer, employee, or person, any determination under this paragraph of whether, during the effective period of the Program, a covered public health emergency has occurred.

7 (2) AFFILIATE.—The term “affiliate” means,
8 with respect to an participating insurer, any entity
9 that controls, is controlled by, or is under common
10 control with the insurer.

23 (4) CONTROL.—

(A) IN GENERAL.—An entity has “control” over another entity, if—

(i) the entity directly or indirectly or acting through 1 or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other entity;

(ii) the entity controls in any manner the election of a majority of the directors or trustees of the other entity; or

(iii) the Secretary determines, after notice and opportunity for hearing, that the entity directly or indirectly exercises a controlling influence over the management or policies of the other entity.

(B) RULE OF CONSTRUCTION.—An entity, including any affiliate thereof, does not have “control” over another entity, if, as of January 1, 2021, the entity is acting as an attorney-in-fact, as defined by the Secretary, for the other entity and such other entity is a reciprocal insurer, provided that the entity is not, for reasons other than the attorney-in-fact relationship, defined as having “control” under subparagraph (A).

(5) DIRECT EARNED PREMIUM.—The term “direct earned premium” means a direct earned premium.

1 mium for property and casualty insurance issued by
2 any participating insurer for insurance against
3 losses occurring in the United States.

14 (A) cancellation, abandonment, or resched-
15 uling of an event; or

16 (B) non-appearance at an event of a prin-
17 cipal speaker.

23 (A) within the United States; and

(B) during the period that the covered public health emergency for such area is in effect.

(9) INSURER.—The term “insurer” means any entity, including any affiliate thereof—

6 (A) that is—

(i) licensed or admitted to engage in the business of providing primary or excess insurance in any State;

19 (iv) a State residual market insurance
20 entity or State workers' compensation
21 fund; or

22 (v) any other entity described in sec-
23 tion 4(f), to the extent provided in the
24 rules of the Secretary issued under section
25 4(f);

(B) that receives direct earned premiums for any type of commercial property and casualty insurance coverage, other than in the case of entities described in subsections (d) and (f) of section 4; and

(C) that meets any other criteria that the Secretary may reasonably prescribe.

Such term includes captive insurers and other self-insurance arrangements by municipalities and other entities (such as workers' compensation self-insurance programs and State workers' compensation re-insurance pools).

(B) notwithstanding subparagraph (A), for any calendar year, if a participating insurer has not had a full year of operations during the calendar year immediately preceding such calendar year, such portion of the direct earned premiums of the participating insurer as the Sec-

1 retary determines appropriate, subject to appropriate methodologies established by the Secretary for measuring such direct earned premiums.

5 (11) NAIC.—The term “NAIC” means the National Association of Insurance Commissioners.

7 (12) PARTICIPATING INSURER.—The term “participating insurer” means, with respect to a calendar year, an insurer that has elected pursuant to section 4(a)(3) to participate in the Pandemic Risk Reinsurance Program under this Act for such calendar year.

13 (13) PERSON.—The term “person” means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

19 (14) PROGRAM.—The term “Program” means the Pandemic Risk Reinsurance Program established by this Act.

22 (15) PROPERTY AND CASUALTY INSURANCE.—
23 The term “property and casualty insurance”—

24 (A) means commercial lines of property and casualty insurance, including excess insur-

1 ance, workers' compensation insurance, and
2 event cancellation insurance; and

3 (B) does not include—

4 (i) Federal crop insurance issued or
5 reinsured under the Federal Crop Insurance
6 Act (7 U.S.C. 1501 et seq.), or any
7 other type of crop or livestock insurance
8 that is privately issued or reinsured;

9 (ii) private mortgage insurance (as
10 such term is defined in section 2 of the
11 Homeowners Protection Act of 1998 (12
12 U.S.C. 4901)) or title insurance;

13 (iii) financial guaranty insurance
14 issued by monoline financial guaranty insurance
15 corporations;

16 (iv) insurance for medical malpractice;

17 (v) health or life insurance, including
18 group life insurance;

19 (vi) flood insurance provided under
20 the National Flood Insurance Act of 1968
21 (42 U.S.C. 4001 et seq.);

22 (vii) reinsurance or retrocessional re-
23 insurance;

24 (viii) commercial automobile insur-
25 ance;

(16) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

(17) STATE.—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, each of the United States Virgin Islands, and any territory or possession of the United States.

20 (A) to begin at 12:01 a.m. on that date;

and

(B) to end at midnight on that date.

23 SEC. 4. PANDEMIC RISK REINSURANCE PRO

1 (1) IN GENERAL.—There is established in the
2 Department of the Treasury the Pandemic Risk Re-
3 insurance Program.

4 (2) AUTHORITY OF THE SECRETARY.—Notwith-
5 standing any other provision of State or Federal
6 law, the Secretary shall administer the Program,
7 and shall pay the Federal share of compensation for
8 insured losses in accordance with subsection (e).

9 (3) VOLUNTARY PARTICIPATION.—

10 (A) ELIGIBILITY.—Each entity that meets
11 the definition of an insurer under this Act may
12 participate in the Program.

13 (B) ELECTION.—The Secretary shall pro-
14 vide a process by which insurers may elect to
15 participate in the Program, with respect to a
16 calendar year.

17 (4) TREATMENT OF EXISTING POLICIES.—This
18 Act may not be construed to affect any policy for
19 business interruption insurance in force on the date
20 of the enactment of this Act.

21 (b) CONDITIONS FOR FEDERAL PAYMENTS.—No
22 payment may be made by the Secretary under this section
23 with respect to an insured loss that is covered by a partici-
24 pating insurer, unless—

1 (1) the person that suffers the insured loss, or
2 a person acting on behalf of that person, files a
3 claim with the participating insurer;

4 (2) the participating insurer provides clear and
5 conspicuous disclosure to the policyholder of the pre-
6 mium charged for insured losses covered by the Pro-
7 gram and the Federal share of compensation for in-
8 sured losses under the Program—

9 (A) in the case of any policy that is issued
10 before the date of enactment of this Act, not
11 later than 90 days after that date of enactment;

12 (B) in the case of any policy that is issued
13 within 90 days of the date of enactment of this
14 Act, at the time of offer and renewal of the pol-
15 icy; and

16 (C) in the case of any policy that is issued
17 more than 90 days after the date of enactment
18 of this Act, on a separate line item in the pol-
19 icy, at the time of offer and renewal of the pol-
20 icy;

21 (3) in the case of any policy that is issued after
22 the date of enactment of this Act, the participating
23 insurer provides clear and conspicuous disclosure to
24 the policyholder of the existence of the
25 \$750,000,000,000 cap under subsection (e)(2), at

1 the time of offer, purchase, and renewal of the pol-
2 icy;

3 (4) the participating insurer processes the claim
4 for the insured loss in accordance with appropriate
5 business practices, and any reasonable procedures
6 that the Secretary may prescribe; and

7 (5) the participating insurer submits to the Sec-
8 retary, in accordance with such reasonable proce-
9 dures as the Secretary may establish—

10 (A) a claim for payment of the Federal
11 share of compensation for insured losses under
12 the Program;

13 (B) written certification—

14 (i) of the underlying claim; and
15 (ii) of all payments made for insured
16 losses; and

17 (C) certification of its compliance with the
18 provisions of this subsection.

19 (c) MANDATORY AVAILABILITY OF COVERAGE FOR
20 COVERED PUBLIC HEALTH EMERGENCIES UNDER BUSI-
21 NESS INTERRUPTION COVERAGE.—During each calendar
22 year, each participating insurer shall, with respect to such
23 year—

1 (1) make available, in all of its business inter-
2 ruption insurance policies, coverage for insured
3 losses; and

4 (2) make available business interruption insur-
5 ance coverage for insured losses that does not differ
6 materially from the terms, conditions, amounts, lim-
7 its, deductibles, or self-insured retentions and other
8 coverage grants, limitations, and exclusions applica-
9 ble to losses arising from events other than public
10 health emergencies.

11 (d) STATE RESIDUAL MARKET INSURANCE ENTI-
12 TIES.—

13 (1) IN GENERAL.—The Secretary shall issue
14 regulations, as soon as practicable after the date of
15 enactment of this Act, that apply the provisions of
16 this Act to State residual market insurance entities
17 and State workers' compensation funds.

18 (2) TREATMENT OF CERTAIN ENTITIES.—For
19 purposes of the regulations issued pursuant to para-
20 graph (1)—

21 (A) a State residual market insurance enti-
22 ty that does not share its profits and losses
23 with private sector insurers shall be treated as
24 a separate insurer; and

(B) a State residual market insurance entity that shares its profits and losses with private sector insurers shall not be treated as a separate insurer, and shall report to each private sector insurance participant its share of the insured losses of the entity, which shall be included in each private sector participating insurer's insured losses.

16 (e) REINSURANCE FOR INSURED LOSSES.—

17 (1) FEDERAL SHARE OF COMPENSATION.—

10 (C) PROHIBITION ON DUPLICATIVE COM-
11 PENSATION.—The Federal share of compensa-
12 tion for insured losses under the Program shall
13 be reduced by the amount of compensation pro-
14 vided by the Federal Government to any person
15 under any other Federal program for those in-
16 sured losses.

(A) IN GENERAL.—Notwithstanding paragraph (1) or any other provision of Federal or State law, if the aggregate insured losses exceed \$750,000,000,000, during a calendar year—

(ii) no participating insurer that has met its insurer deductible shall be liable for the payment of any amounts under subparagraph (B).

(B) INSURER SHARE.—

(iii) REPORT TO CONGRESS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall provide a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the process to be used by the Secretary for determining the allocation of pro rata payments for insured losses under the Program when such losses exceed \$750,000,000,000.

1 (5) DETERMINATIONS FINAL.—Any determina-
2 tion of the Secretary under this subsection shall be
3 final, unless expressly provided, and shall not be
4 subject to judicial review.

5 (f) CAPTIVE INSURERS AND OTHER SELF-INSUR-
6 ANCE ARRANGEMENTS.—The Secretary may, in consulta-
7 tion with the NAIC or the appropriate State regulatory
8 authority, apply the provisions of this Act, as appropriate,
9 to other classes or types of captive insurers and other self-
10 insurance arrangements by municipalities and other enti-
11 ties (such as workers' compensation self-insurance pro-
12 grams and State workers' compensation reinsurance
13 pools), but only if such application is determined before
14 the commencement of a covered public health emergency
15 in which such an entity incurs an insured loss and all of
16 the provisions of this Act are applied comparably to such
17 entities.

18 (g) REINSURANCE TO COVER EXPOSURE.—

19 (1) OBTAINING COVERAGE.—This Act may not
20 be construed to limit or prevent insurers from ob-
21 taining reinsurance coverage for insurer deductibles
22 or insured losses retained by insurers pursuant to
23 this section, nor shall the obtaining of such coverage
24 affect the calculation of such deductibles.

1 (2) LIMITATION ON FINANCIAL ASSISTANCE.—

2 The amount of financial assistance provided pursuant
3 to this section shall not be reduced by reinsurance
4 paid or payable to an insurer from other
5 sources, except that recoveries from such other
6 sources, taken together with financial assistance for
7 the calendar year provided pursuant to this section,
8 may not exceed the aggregate amount of the insurer's
9 insured losses for the calendar year. If such recoveries
10 and financial assistance for the calendar year exceed such
11 aggregate amount of insured losses for the calendar year and there is no agreement between
12 the insurer and any reinsurer to the contrary, an amount in excess of such aggregate insured
13 losses shall be returned to the Secretary.

16 **SEC. 5. GENERAL AUTHORITY AND ADMINISTRATION OF**17 **CLAIMS.**

18 (a) GENERAL AUTHORITY.—The Secretary shall have
19 the powers and authorities necessary to carry out the Program, including authority—

21 (1) to investigate and audit all claims under the
22 Program; and

23 (2) to prescribe regulations and procedures to
24 effectively administer and implement the Program, and to ensure that all participating insurers and

1 self-insured entities are treated comparably under
2 the Program.

3 (b) INTERIM RULES AND PROCEDURES.—The Sec-
4 retary may issue interim final rules or procedures speci-
5 fying the manner in which—

6 (1) insurers may file and certify claims under
7 the Program;

8 (2) the Federal share of compensation for in-
9 sured losses will be paid under the Program, includ-
10 ing payments based on estimates of or actual in-
11 sured losses;

12 (3) the Secretary may, at any time, seek repay-
13 ment from or reimburse any insurer, based on esti-
14 mates of insured losses under the Program, to effec-
15 tuate the insured loss sharing provisions in section
16 4; and

17 (4) the Secretary will determine any final net-
18 ting of payments under the Program, including pay-
19 ments owed to the Federal Government from any in-
20 surer and any Federal share of compensation for in-
21 sured losses owed to any insurer, to effectuate the
22 insured loss sharing provisions in section 4.

23 (c) CONSULTATION.—The Secretary shall consult
24 with the NAIC, as the Secretary determines appropriate,
25 concerning the Program.

1 (d) CONTRACTS FOR SERVICES.—The Secretary may
2 employ persons or contract for services as may be nec-
3 essary to implement the Program.

4 (e) SUBMISSION OF PREMIUM INFORMATION.—

5 (1) IN GENERAL.—The Secretary shall annually
6 compile information on the business interruption in-
7 surance premium rates of insurers for the preceding
8 year.

9 (2) ACCESS TO INFORMATION.—To the extent
10 that such information is not otherwise available to
11 the Secretary, the Secretary may require each in-
12 surer to submit to the NAIC business interruption
13 insurance premium rates, as necessary to carry out
14 paragraph (1), and the NAIC shall make such infor-
15 mation available to the Secretary.

16 (3) AVAILABILITY TO CONGRESS.—The Sec-
17 retary shall make information compiled under this
18 subsection available to the Congress, upon request.

19 (f) REPORTING OF BUSINESS INTERRUPTION INSUR-
20 ANCE DATA.—

21 (1) AUTHORITY.—Beginning upon the date of
22 the enactment of this Act, in each calendar year, the
23 Secretary shall require participating insurers to sub-
24 mit to the Secretary such information regarding
25 losses of such insurers, under insurance coverage for

1 business interruption, resulting from public health
2 emergencies as the Secretary considers appropriate
3 to analyze the effectiveness of the Program, which
4 shall include information regarding—

5 (A) lines of insurance with exposure to
6 such losses;

7 (B) premiums earned on such coverage;

8 (C) geographical location of exposures;

9 (D) pricing of such coverage;

10 (E) the take-up rate for such coverage;

11 (F) the amount of private reinsurance for
12 losses resulting from public health emergencies
13 purchased; and

14 (G) such other matters as the Secretary
15 considers appropriate.

16 (2) REPORTS.—Not later than one year after
17 the date of the enactment of this Act and annually
18 thereafter, the Secretary shall submit a report to the
19 Committee on Financial Services of the House of
20 Representatives and the Committee on Banking,
21 Housing, and Urban Affairs of the Senate that in-
22 cludes—

23 (A) an analysis of the overall effectiveness
24 of the Program;

(B) an evaluation of the availability and affordability of business interruption insurance for losses resulting from public health emergencies;

(C) an evaluation of any changes or trends in the data collected under paragraph (1);

(E) an evaluation of the impact of the Program on workers' compensation insurers; and

14 (F) in the case of the data reported in
15 paragraph (1)(B), an updated estimate of the
16 total amount earned since the first January 1
17 occurring after the date of the enactment of
18 this Act.

1 form or manner that does not permit identification
2 of the insurer submitting such information.

3 (4) ADVANCE COORDINATION.—Before col-
4 lecting any data or information under paragraph (1)
5 from an insurer, or affiliate of an insurer, the Sec-
6 retary shall coordinate with the appropriate State in-
7 surance regulatory authorities and any relevant gov-
8 ernment agency or publicly available sources to de-
9 termine if the information to be collected is available
10 from, and may be obtained in a timely manner by,
11 individually or collectively, such entities. If the Sec-
12 retary determines that such data or information is
13 available, and may be obtained in a timely matter,
14 from such entities, the Secretary shall obtain the
15 data or information from such entities. If the Sec-
16 retary determines that such data or information is
17 not so available, the Secretary may collect such data
18 or information from an insurer and affiliates.

19 (5) CONFIDENTIALITY.—

20 (A) RETENTION OF PRIVILEGE.—The sub-
21 mission of any non-publicly available data and
22 information to the Secretary and the sharing of
23 any non-publicly available data with or by the
24 Secretary among other Federal agencies, the
25 State insurance regulatory authorities, or any

1 other entities under this subsection shall not
2 constitute a waiver of, or otherwise affect, any
3 privilege arising under Federal or State law (in-
4 cluding the rules of any Federal or State court)
5 to which the data or information is otherwise
6 subject.

7 (B) CONTINUED APPLICATION OF PRIOR
8 CONFIDENTIALITY AGREEMENTS.—Any require-
9 ment under Federal or State law to the extent
10 otherwise applicable, or any requirement pursu-
11 ant to a written agreement in effect between
12 the original source of any non-publicly available
13 data or information and the source of such data
14 or information to the Secretary, regarding the
15 privacy or confidentiality of any data or infor-
16 mation in the possession of the source to the
17 Secretary, shall continue to apply to such data
18 or information after the data or information
19 has been provided pursuant to this subsection.

20 (C) INFORMATION-SHARING AGREE-
21 MENT.—Any data or information obtained by
22 the Secretary under this subsection may be
23 made available to State insurance regulatory
24 authorities, individually or collectively, through
25 an information-sharing agreement that—

(i) shall comply with applicable Federal law; and

(ii) shall not constitute a waiver of, or otherwise affect, any privilege under Federal or State law (including any privilege referred to in subparagraph (A) and the rules of any Federal or State court) to which the data or information is otherwise subject.

16 (g) FUNDING.—

17 (1) FEDERAL PAYMENTS.—There are hereby
18 appropriated, out of funds in the Treasury not oth-
19 erwise appropriated, such sums as may be necessary
20 to pay the Federal share of compensation for in-
21 sured losses under the Program.

1 necessary to pay reasonable costs of administering
2 the Program.

3 **SEC. 6. PREEMPTION AND NULLIFICATION OF PRE-EXIST-**
4 **ING EXCLUSIONS.**

5 (a) GENERAL NULLIFICATION.—Any exclusion in a
6 contract of a participating insurer for business interrup-
7 tion insurance that is in force on the date of enactment
8 of this Act shall be void to the extent that it excludes
9 losses that would otherwise be insured losses under the
10 Program.

11 (b) GENERAL PREEMPTION.—Any State approval of
12 any exclusion from a contract of a participating insurer
13 for business interruption insurance that is in force on the
14 date of enactment of this Act, shall be void to the extent
15 that it excludes losses that would otherwise be insured
16 losses under the Program.

17 (c) REINSTATEMENT OF EXCLUSIONS.—Notwith-
18 standing subsections (a) and (b) or any provision of State
19 law, a participating insurer may reinstate a preexisting
20 provision in a contract for business interruption insurance
21 that is in force on the date of enactment of this Act and
22 that excludes coverage for loss resulting from a covered
23 public health emergency only—

- 1 (1) if the participating insurer has received a
2 written statement from the insured that affirm-
3 atively authorizes such reinstatement; or
4 (2) for contracts in effect for less than 5
5 months—
6 (A) the insured fails to pay any increased
7 premium charged by the participating insurer
8 for providing such coverage for covered public
9 health emergencies, but only if such premium
10 does not increase by more than 15 percent; and
11 (B) the participating insurer provided no-
12 tice, at least 30 days before any such reinstate-
13 ment, of—
14 (i) the increased premium for such
15 covered public health emergency coverage;
16 and
17 (ii) the rights of the insured with re-
18 spect to such coverage, including any date
19 upon which the exclusion would be rein-
20 stated if no payment is received.

21 **SEC. 7. PRESERVATION PROVISIONS.**

- 22 (a) STATE LAW.—Nothing in this Act shall affect the
23 jurisdiction or regulatory authority of the insurance com-
24 missioner (or any agency or office performing like func-
25 tions) of any State over any insurer or other person—

(1) except as specifically provided in this Act;

2 and

3 (2) except that—

(B) during the period beginning on the date of enactment of this Act and ending on December 31, 2020, rates and forms for business interruption insurance covered by this Act and filed with any State shall not be subject to prior approval or a waiting period under any law of a State that would otherwise be applicable, except that nothing in this Act affects the ability of any State to invalidate a rate as excessive, inadequate, or unfairly discriminatory, and, with respect to forms, where a State has prior approval authority, it shall apply to allow subsequent review of such forms; and

11 (b) EXISTING REINSURANCE AGREEMENTS.—Nothing
12 in this Act shall be construed to alter, amend, or ex-
13 pand the terms of coverage under any reinsurance agree-
14 ment in effect on the date of enactment of this Act. The
15 terms and conditions of such an agreement shall be deter-
16 mined by the language of that agreement.

17 SEC. 8. STUDY AND ANALYSES.

18 (a) STUDY AND REPORT ON THE PROGRAM.—

1 emergencies after termination of the Program, and
2 the availability and affordability of such insurance
3 for various policyholders.

4 (2) REPORT.—The Secretary shall submit a re-
5 port to the Congress on the results of the study con-
6 ducted under paragraph (1) not later than the expi-
7 ration of the 12-month period beginning on the date
8 of the enactment of this Act.

9 (b) ANALYSIS OF MARKET CONDITIONS FOR PUBLIC
10 HEALTH EMERGENCY RISK INSURANCE.—

11 (1) IN GENERAL.—The President's Working
12 Group on Financial Markets, in consultation with
13 the National Association of Insurance Commis-
14 sioners, representatives of the insurance industry,
15 representatives of the securities industry, and rep-
16 resentatives of policy holders, shall perform an ongo-
17 ing analysis regarding the long-term availability and
18 affordability of insurance for risk of public health
19 emergencies.

20 (2) REPORT.—Not later than the expiration of
21 the 12-month period beginning on the date of the
22 enactment of this Act and every two years there-
23 after, the President's Working Group on Financial
24 Markets shall submit a report to the Committee on
25 Banking, Housing, and Urban Affairs of the Senate

1 and the Committee on Financial Services of the
2 House of Representatives on its findings pursuant to
3 the analysis conducted under paragraph (1).

4 (c) AVAILABILITY AND AFFORDABILITY OF BUSI-
5 NESS INTERRUPTION INSURANCE IN SPECIFIC MAR-
6 KETS.—

7 (1) STUDY.—The Comptroller General of the
8 United States shall conduct a study to determine
9 whether there are specific markets in the United
10 States where there are unique capacity constraints
11 on the amount of business interruption insurance
12 available.

13 (2) ELEMENTS OF STUDY.—The study required
14 by paragraph (1) shall contain—

15 (A) an analysis of both insurance and rein-
16 surance capacity in specific markets, including
17 pricing and coverage limits in existing policies;

18 (B) an assessment of the factors contrib-
19 uting to any capacity constraints that are iden-
20 tified; and

21 (C) recommendations for addressing those
22 capacity constraints.

23 (3) REPORT.—Not later than 180 days after
24 the date of enactment of this Act, the Comptroller
25 General shall submit a report on the study required

1 by paragraph (1) to the Committee on Banking,
2 Housing, and Urban Affairs of the Senate and the
3 Committee on Financial Services of the House of
4 Representatives.

5 (d) STUDY OF SMALL INSURER MARKET COMPETI-
6 TIVENESS.—

7 (1) IN GENERAL.—Not later than the expira-
8 tion of the 12-month period beginning on the date
9 of the enactment of this Act and every two years
10 thereafter, the Secretary shall conduct a study of
11 small insurers (as such term is defined by regulation
12 by the Secretary) participating in the Program, and
13 identify any competitive challenges small insurers
14 face in the business interruption insurance market-
15 place, including—

16 (A) changes to the market share, premium
17 volume, and policyholder surplus of small insur-
18 ers relative to large insurers;

19 (B) how the business interruption insur-
20 ance market for risk of public health emer-
21 gencies differs between small and large insur-
22 ers, and whether such a difference exists within
23 other perils;

24 (C) the impact of the Program's avail-
25 ability on small insurers;

1 (D) the effect of increasing the trigger
2 amount for the Program under section
3 4(e)(1)(B) on small insurers;

(E) the availability and cost of private re-insurance for small insurers; and

6 (F) the impact that State workers com-
7 pensation laws have on small insurers and
8 workers compensation carriers in the business
9 interruption insurance marketplace.

14 SEC. 9. TERMINATION OF PROGRAM.

15 (a) TERMINATION.—The Program shall terminate on
16 December 31, 2027.

17 (b) CONTINUING AUTHORITY TO PAY OR ADJUST
18 COMPENSATION.—Following the termination of the Pro-
19 gram, the Secretary may take such actions as may be nec-
20 essary to ensure payment, recoupment, reimbursement, or
21 adjustment of compensation for insured losses arising out
22 of any covered public health emergency occurring during
23 the period in which the Program was in effect under this
24 Act, in accordance with the provisions of section 4 and
25 regulations promulgated thereunder.

1 (c) REPEAL; SAVINGS CLAUSE.—This Act is repealed
2 on the final termination date of the Program under sub-
3 section (a), except that such repeal shall not be con-
4 strued—

5 (1) to prevent the Secretary from taking, or
6 causing to be taken, such actions under subsection
7 (b) of this section, paragraph (4) or (5) of section
8 4(e), or subsection (a)(1), (c), (d), or (e) of section
9 5, as in effect on the day before the date of such re-
10 peal, or applicable regulations promulgated there-
11 under, during any period in which the authority of
12 the Secretary under subsection (b) of this section is
13 in effect; or

14 (2) to prevent the availability of funding under
15 section 5(g) during any period in which the author-
16 ity of the Secretary under subsection (b) of this sec-
17 tion is in effect.

