

# **RICARDO LARA**

## **INSURANCE COMMISSIONER**

### **California Department of Insurance**

**Notes – Assembly Member Kiley**  
**Small Business Tele-Town Hall**  
**Friday, June 12, 2020**

California businesses of all sizes are suffering great losses because of the COVID-19 Pandemic. While we have encountered business interruption questions in the past following wildfires or other disasters, we have seen nothing on this scale – with thousands of businesses closed and drastically reducing payroll. Insurance Commissioner Ricardo Lara, along with Assembly Member Kevin Kiley, hosted the following small business experts to address issues faced by California’s small businesses:

- Heather Luzzi - District Director, U. S. Small Business Administration, Sacramento District Office
- Bianca Blomquist - California Policy Engagement Manager, Small Business Majority
- Tony Cignarale - Deputy Commissioner for Consumer Services and Market Conduct
- Jon Phenix - Legal, Department of Insurance

#### **Assembly Member Kevin Kiley**

I represent parts of El Dorado, Placer and Sacramento counties in the State Assembly. I know what an extraordinarily challenging time this has been for small businesses in particular. I wanted to put together today’s call with Commissioner Lara and others to present your questions and provide helpful resources.

With the budget at the Legislature due next week, I’ve been fighting for a ‘pro-worker, small business friendly budget’. I have been pushing for tax relief from regulations and for liability protection. If small businesses can recover as quickly as possible, that will be the best thing for our state.

#### **Insurance Commissioner Ricardo Lara**

Thank you, Assembly Member Kiley, for your constant leadership during these difficult times.

Just a few months ago I came to Cameron Park to talk about the wildfire insurance issues affecting our whole state – and especially in the Sierra foothills.

Today as we talk about resources for our small businesses, we are starting another wildfire season – that will be very much on my mind in the months ahead.

I have personally spoken in more than 20 town halls for small businesses dealing with losses from COVID-19.

**insurance.ca.gov 800.927.4357**

As we continue through this unprecedented COVID-19 emergency, we have a lot of work to do to assist small businesses and their workers.

We have seen unprecedented job losses across the state including El Dorado, Placer and Sacramento counties.

The Department of Insurance has taken a number of steps to help small businesses:

I have ordered insurance companies to return a portion of premiums to businesses and drivers affected by the COVID-19 pandemic for March, April and May due to “stay at home” orders and reduced accidents and losses.

My order covers at least six lines of insurance where the risk of loss has fallen as a result of the pandemic.

With many businesses closed due to the COVID-19 emergency, you need relief from premiums that no longer reflect your present-day risk of loss.

By requiring insurance companies to return premiums, it puts some money back in your pockets or reduces your future costs when you need it the most.

Business owners do not have to do anything to receive the refund, and insurance companies must provide this relief as soon as possible.

You can also contact your insurance company to provide your actual or estimated change in payroll or business receipts, and possibly qualify for an even larger discount.

This builds on an action I took last month to request insurance companies give businesses a 60-day grace period to pay premiums through at least July 14th.

Many insurance companies have honored that request by offering flexibility to consumers and businesses during the COVID-19 emergency and now after the looting as well.

We encourage you to contact our Department at 800-927-4357 or by visiting our website at [insurance.ca.gov](http://insurance.ca.gov).

My Department has also received a number of complaints regarding business interruption insurance.

Many businesses have looked to their insurance policies for possible coverage.

As you know, each policy is a legal contract between the business owner and the insurance company -- and since early March we have seen dozens of lawsuits around the country, including California, which concern the interpretation of these policies and whether these policies cover losses due to COVID-19.

I can tell you we are monitoring these cases as they move through the courts, but I have taken several significant steps to address business interruption.

**[insurance.ca.gov](http://insurance.ca.gov) 800.927.4357**

We have been learning that some insurance companies are denying business interruption claims without a thorough investigation or even discouraging business owners from even filing a claim. That is simply unacceptable.

In response to numerous complaints from businesses, public officials, and other stakeholders, I required insurance companies to comply with their contracts and California law by fairly investigating every single business interruption claims caused by COVID-19 – just as they would for any disaster such as a fire, earthquake, or flood.

My Department will be watching to make sure they do and ensure everyone is getting a fair claim.

It is important to note that it will take some time to see the impact of COVID-19 on our workers' compensation system, which has been another question we have been hearing from business owners.

Businesses that are closed or have drastically reduced payrolls may see their workers' compensation insurance costs reduced in the short term -- and my orders for premium rebates include worker's compensation insurance for that reason.

Under the current workers' compensation regulations, payrolls include payments to employees who are furloughed even though they are not working, which means that employers' rates would remain the same as if those employees were still in the workplace performing their regular duties.

So, there is a major discrepancy there. Also, employers that provide workers with the opportunity to transition from regular work duties to lighter, home-based clerical work are still paying rates based upon the higher job classification.

To address this unfair situation, last month my Department held a hearing to consider proposed emergency regulations, which would make changes intended to reflect the lower risk of worker injury in light of the pandemic.

I plan to review the proposed regulations and determine whether they are consistent with my overall mandate to reduce premiums to reflect the reduced risk.

I also want to urge all businesses to be on the lookout for fraud and insurance scams – and report any suspicious activity to the Department of Insurance.

We have 300 sworn investigators and enforcement personnel, with 9 regional offices – including an office in Sacramento that serves El Dorado, Placer and Sacramento counties.

I would just say be on the alert for those offering bogus workers' compensation policies. Verify the legitimacy of the selling agent and the policy offered. You can verify the agent's license on our website and contact the insurance company directly to verify the policy.

Be on the alert for fraudulent workers' compensation claims by employees that may occur as the result of layoffs or COVID-19 related illness.

We encourage you to report any suspected insurance scams and fraud by calling CDI at 800-927-4357 or through our website at [insurance.ca.gov](https://insurance.ca.gov). You can also reach us for any insurance questions or concerns.

While a majority of our staff are teleworking in support of the Governor's "stay at home" directives, we continue to provide essential services for California consumers and we are available via phone at 1-800-927-4357 (HELP) and through our website – [insurance.ca.gov](https://insurance.ca.gov) -- to assist you with your claims.

Insurance can be complicated. We can help you and guide you through this process.

We have insurance experts ready to help and answer your questions in multiple languages.

You can talk to an actual person – not just a recording.

I look forward to answering your questions.

### **Heather Luzzi**

The United States Small Business Administration was founded in 1953 as part of the Small Business Act. We are the only federal Agency whose sole focus is around helping small businesses start, grow, and expand into new markets and recovery after a disaster.

In any typical year, SBA Supports FEMA in cases of disaster, such as hurricanes, tornadoes, earthquakes and fires. In the current climate; however, we find ourselves in more of a "first responder" capacity. SBA along with our valuable resource partners, such as the Small Business Development Centers (SBDC), the Women's Business Center's (WBC), the Veterans Business Outreach Center as well as our many SCORE Volunteers and Mentors around the country. Another partner of the Agency is the Small Business Majority that is on the call with us today. Over the last 10 weeks, we as an agency have processed more loan requests that we have in our entire history.

The Cares Act brought us the Paycheck Protection Program. This is a forgivable loan that is being administrated by our lender partners, The Debt Relief component of the CARES Act, (section 1112) that provides for SBA to make all principal, interest and fee payments on any existing loan that is in a current status for a six-month period as well as any newly originated loan through September 27, 2020. In addition to those programs, the Economic Injury Disaster Loan - this is the only time that SBA does any direct lending.

### **Bianca Blomquist**

The Small Business Majority (SBM) is a 501(c)(3). We provide all materials, trainings, support and workshops for free. We help small business owners through educational workshops; advocacy work; and we connect small business owners to local, state, and national news syndicates. We released a poll a little over a month ago that showed that 92% of small businesses have been harmed by COVID-19 and nearly half of those folks have indicated a severe negative impact. They deserve access to EIDL and PPP. The SBM also engages in connecting business owners with other resources. We work with the SBA, SBDCs, SCORE, business groups and policymakers to bring the small business ecosystem directly to the small business owner. We set the framework of understanding for each small business owner to

**[insurance.ca.gov](https://insurance.ca.gov) 800.927.4357**

learn the lending landscape, connect them to the relevant community resources to build their business and plug them into our network of policymakers and media opportunities to elevate the authentic voice of small business.

## Questions

**1. What are your feelings on AB 2501? It seems to me it creates as many problems as it solves and transfers the crisis from the borrower to the lender. Not all lenders for houses are banks, many retirees have invested their retirement into houses, or lend money to people with houses for security. The fact is once they break one link in our economical chain everybody will lose in the long term and if they don't break the chain a lot of poor to middle class people will be hurt. So, what do you do?**

**Assembly Member:** AB 2501 would create forbearance for up to 180 days when it comes to auto and home loans. It has had significant opposition. The bill is still in the Assembly, making its way through the process but still many steps before heading to the Governor. I would encourage you to stay involved.

**2. We publish printed programs for nonprofit organizations that produce programming classified as Phase 4 for reopening. We carry multi-media publisher liability insurance. Should we be entitled to a premium reduction due to our vastly reduced production schedule this year?**

**Commissioner:** Yes, not just for your business for many businesses that are seeing a reduced risk. As I noted earlier, I ordered premium refunds because for many people and businesses the risk of accident or loss is much lower due to the statewide stay-at-home order. We are seeing:

- Fewer accidents or injuries on the road
- Falling business payroll and receipts
- Reductions in liability exposure due to the temporary closure or reduction of many businesses

Premium reductions and refunds should reflect that.

The risk has not gone away completely – but my Department will be watching to make sure that the amount insurance companies are returning is adequate, and they are not short-changing you.

I want Jon Phenix from our Legal Branch to give more details about this:

**Phenix:** The amount you get back will vary by company and policy.

In many cases the credit, reduction or refund will be a percentage of your premiums for March, April and May as these stay at home rules continue.

This will not be a 100% refund of your premium; the reductions will be tied to the change in risk during the months Californians are subject to “stay at home” orders.

We have already seen a number of insurance companies announce premium refunds, reductions and credits.

**insurance.ca.gov 800.927.4357**

Commissioner Lara's bulletin directed all insurers to make an initial premium refund to all adversely impacted California policyholders as soon as possible, but no later than 120 days from the date of the bulletin (which will be August 11, 2020). This directive applies to the following lines of insurance:

- Private passenger automobile insurance
- Commercial automobile insurance
- Workers' compensation insurance
- Commercial multi-peril insurance
- Commercial liability insurance
- Medical malpractice insurance
- Any other line of coverage where the measures of risk have become substantially overstated as a result of the pandemic.

Commissioner Lara's bulletin was one of the few among all states to include premium refunds for commercial lines, rather than just personal auto.

Since every insurer's book of business and product type is different, Commissioner Lara directed each insurance company to propose the best way to immediately return premium to policyholders. He also directed each insurer to report back to the Department how they will fulfill this directive within 60 days (or by June 12, 2020, which is today).

Persons who have not received premium relief in spite of a reduction in the covered risks under a policy are strongly encouraged to contact their insurance company. If you are not satisfied with the answers you get or have other questions, please contact us at (800) 927-4357 or through our website at: [insurance.ca.gov](http://insurance.ca.gov).

Commissioner Lara has also requested an extended grace period to pay your premium. If you are having trouble paying your premium, contact your insurance company and inquire about the Commissioner's grace period notice.

**3. I have contacted my insurance company and requested assistance for business interruption. I complied with the Stay at Home orders so my business was closed with no possibility of sales. I was denied any financial help from my insurance company. Do I have any other recourse with my insurer?**

**This is just one of many questions we received on business interruptions but in general why isn't business interruption covered due to losses caused by the COVID19 pandemic?**

**Commissioner:** Since the questions we received on business interruption are very specific to those businesses and all policies are not the same, we would need to look at the specific policy to better understand what coverages and exclusions each business has.

But, in general, if you have Business Interruption coverage, but your insurance company is telling you that these losses are not covered due to exclusions in your policy, we recommend that you file a formal claim with your insurance company and start creating that paper trail.

Insurance companies are legally required to fairly investigate your claim and formally respond back to you with their coverage decision and the reason for any denials they may make.

I would like Tony Cignarale, my deputy commissioner for consumer services to provide more details on this issue.

**Cignarale:** While it is more complicated than this, many commercial policies have exclusions for loss due to contamination by virus and similar perils.

Many policies also require that your loss be caused by direct physical damage or loss to the insured property that results from a cause covered by the policy. These conditions and exclusions do create hurdles to obtaining coverage.

As Commissioner Lara noted in his introduction there are several lawsuits that are seeking to interpret these virus exclusions and what is meant by “physical damage”. How those courts rule on these issues will help policymakers, (like the insurance commissioner, legislature, governor, congress) determine what needs to be done to protect businesses going forward.

However, in the meantime, as Commissioner Lara mentioned we would need to see the entire policy as well as the circumstances applicable to your loss event to know what conditions or exclusion may or may not exist for a particular business.

If a business has not filed a formal claim, it should do so immediately. Don't take your insurance company's, or agent's, word that you do not have business interruption coverage, unless they have properly investigated your claim. Insurance companies are legally required to fairly investigate your claim and formally respond back to you with their coverage decision and the reason for any denials they may make. Even then, if your claim is denied, let us take a look. We can walk you through your policy to make sure what the insurance company is telling you is accurate.

If the business has filed a formal claim and that claim has been denied, we recommend you to file a “Request for Assistance” with CDI at 1 (800) 927-4357 or through our website at: [www.insurance.ca.gov](http://www.insurance.ca.gov).

We will look at the facts of the claim, the policy provisions, and contact the insurance company if we determine there is an issue with their determination.

**4. My small business with 45 employees is struggling through the pandemic as our business opening is part of phase 3 and Covered CA is demanding March/April/May payments in full or out health insurance plan will be cancelled. We have asked for deferment and if needed, a payment plan, but we have not been able to get to anyone who can make a decision.**

**Commissioner:** Covered California created a new program, the Premium Deferral Program, to help small businesses continue to provide insurance to their employees during the current COVID-19 pandemic.

The Premium Deferral Program allows affected businesses to pay 25 percent of their premium payments for April, May and June and spread out the remaining 75 percent of their premium payments across the rest of the year.

**insurance.ca.gov 800.927.4357**

This program also gives employers an extra 30 days to make their premium payments for April and May.

For more information or to enroll in the program, contact the Covered California for Small Business service center at 877-777-6782 or [CCSB@covered.ca.gov](mailto:CCSB@covered.ca.gov)

**5. We also received a lot of questions from small business owners about liability due to COVID-19 exposure. How can businesses deal with these liability issues?**

**Commissioner:** I have held more than a dozen town halls, and I am extremely sympathetic to our businesses.

Even when you reopen, businesses are going to need time to recover. And, I know liability due to COVID exposure is a legitimate concern.

The Department of Insurance is going to be watching closely to make sure that insurance companies are giving you as much flexibility as possible and that they are fully abiding by their contracts.

I understand the burdens being placed on businesses as they attempt to reopen while still keeping their employees and customers safe. It is not an understatement to say that lives are at stake here.

Businesses should follow the Governor's Resiliency Roadmap, as well as local guidelines, for what processes the business must follow, and that will go a long way towards helping California lead the way through this pandemic.

As businesses reopen, they should have a conversation with their agent or insurance company to get guidance regarding how to safely return to business and also to make sure businesses have the right coverage in place.

If the business is not satisfied with these answers, they should contact our Department at 800-927-4357.

As I discussed earlier, workers are specifically covered if they contract COVID-19 while on the job.

**6. What resources do small business have available to assist them during CV-19. Are the resources' contact information located in one website? How do I know I qualify for any of them?**

**Luzzi:** The services of the U.S. SBA and our resources are not free but they are prepaid by tax dollars. The U.S. Small Business Administration has a vast network of Resource Partners to assist with the deployment of the products and services that we provide. The Small Business Development Centers (SBDC), the Women's Business Centers, the Veterans Business Outreach Center and our many SCORE Mentors and Volunteers.

**Blomquist:** SBDC is a great resource. They will provide free advising on accessing responsible capital, avoiding predatory lending, and revisiting your business plan. If you don't know where to start, check out our resource portal to review [www.venturize.org](http://www.venturize.org) by simply typing in your zip code to begin and find resources.

**insurance.ca.gov 800.927.4357**



**7. I filled out a form online to apply for small business assistance, but I never received a reply.**

**Luzzi:** For the PPP, those loans are administrated by our lending partners. The Economic Injury Disaster Loan (EIDL) is the only program that we at SBA are working diligently to get through the overwhelming and unprecedented volume of the requests - over 6 million applications in 30 days. We are implementing procedures that will assist with the backlog of these requests.

**8. Is all COVID-19 small business assistance program money depleted?**

**Luzzi:** No, in fact there is almost \$130B still available in the PPP loan fund through the CARES Act. The key is that this program is scheduled to sunset on June 30<sup>th</sup> so time is of the essence.

**9. My business designs and sells promotional products such as lapel pins and my customers; schools, sports teams, clubs, fraternal organizations, and non-profits are all closed, therefore, no business. I am keeping all employees under PPP for now and working very hard to find new customers that are not closed before the PPP runs out. I'm sure this is a common story. What options do I have before shutting my doors (open since 1957)?**

**Luzzi:** These stories are truly heartbreaking and we stand ready to assist businesses across the county through our many loan guaranty programs and I would like to point out that the PPP has extended the timeframe allowed to "spend" the funding. The original 8 weeks has now been extended to 24 weeks or through December 31<sup>st</sup>, whichever occurs first. In addition, these changes were signed into law on Friday morning and the changes are significant. The 75/25 funding allocation of payroll and ancillary costs have been changed to 60/40. The other significant change is that the two-year term has been expanded to five-year term (note: for new borrowers only). Carries interest rate of 1% so regardless, it is still very inexpensive and will help get businesses afloat.

**Blomquist:** In terms of pivoting your business, there are so many business associations that exist to help folks operate.

## Additional Resources

### **Request Assistance with the Department of Insurance:**

- (800) 927-4357  
[www.insurance.ca.gov](http://www.insurance.ca.gov)

### **Assembly Member Kevin Kiley:**

- District Office: 916-774-4430

### **FAQs and complete Paycheck Protection Program information can be found here:**

- <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>

### **Small Business Administration:**

- <https://www.sba.gov/local-assistance>  
Check Status of my Economic Injury Disaster Loans: (800) 659-2955  
SBA Sacramento District Office email: [Sacramento\\_do@sba.gov](mailto:Sacramento_do@sba.gov)  
SBA Sacramento Disaster Office phone number: 916-735-1700

### **Small Business Majority:**

- <https://smallbusinessmajority.org/>
- [BBlomquist@smallbusinessmajority.org](mailto:BBlomquist@smallbusinessmajority.org)

### **Covered California for Small Business:**

- Service center at (877) 777-6782
- [CCSB@covered.ca.gov](mailto:CCSB@covered.ca.gov)

### **Learn about loans, retirement and healthcare for small businesses, and get connected to trusted providers to help your enterprise grow**

- <https://venturize.org/>

### **Ask Small Business Development Council (SBDC)**

- [www.AskSBDC.com](http://www.AskSBDC.com)  
SBDC email address: [loans@askSBDC.com](mailto:loans@askSBDC.com)  
SBDC phone number: 833-ASK-SBDC

###