

RICARDO LARA

INSURANCE COMMISSIONER

California Department of Insurance

Senator Lena Gonzalez Small Business Insurance Tele Town Hall Friday, June 5th

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 in partnership with Senator Lena Gonzalez and Mayor Robert Garcia hosted the following small business experts to address issues faced by California's small businesses:

Participants:

- Senator Lena Gonzalez, CA Senate District 33
- California Insurance Commissioner Ricardo Lara
- Mayor Robert Garcia, City of Long Beach
- Xiomara Peña, California Program Director & National Latino Entrepreneurship Director Small Business Majority
- Patrick Nye, Regional Director, Los Angeles Small Business Development Network

California State Senator Lena Gonzalez

Updates on what the state is doing to help small businesses:

- California Small Business Loan Guarantee Program (via IBank) is making \$50 million available in state funding, providing potential capital for individuals who do not qualify for federal funds.
- California Small Businesses with 1-750 employees, that have been negatively impacted or experienced disruption by COVID-19 and nonprofits, are eligible.
- IBank does not consider citizenship or immigration status for eligibility requirements, as long as your small business meets specified criteria. To learn more and to check if you qualify visit: www.ibank.ca.gov/small-business-finance-center/
- Another state resource is the Work Sharing Program through EDD. Employers can apply for the Unemployment Insurance Work Sharing program as a temporary alternative to layoffs if your business has experienced a reduction on production or services. To learn more about this program visit: www.edd.ca.gov/unemployment/Work_Sharing_Program.htm
- The legislature is also looking at actions to help our small businesses; one action is the introduction of SB 939, which Senator Gonzalez is joint-authoring with Senator Wiener from San Francisco.
- SB 939, if signed into law would establish a temporary moratorium on evictions for commercial tenants, for the duration of the COVID-19 state of emergency, and a yearlong period in which to make up rental

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payments missed during that state of emergency. This bill seeks to help small businesses such as restaurants and bars that make our district unique.

- If your business was affected during the looting, you are encouraged to look at your existing business insurance policies to see if you are covered for property damage caused by protest, civil commotion or vandalism since this is covered under standard insurance policies.

CA Insurance Commissioner Ricardo Lara

- Commissioner Lara, “To those who are heartbroken about the senseless death of George Floyd and so many others, I am grieving with you.” One way that the Department of Insurance is supporting Californians during this time is by ensuring accurate and timely information and services when it comes to the insurance needs of our communities.
- The Community Outreach team and Consumer Services team have already begun reaching out to affected communities lending support and have prepared a helpful fact sheet about insurance resources following the civil unrest. Link to fact sheet: <http://www.insurance.ca.gov/01-consumers/140-catastrophes/CivilUnrest.cfm>

The Department of Insurance has taken a number of steps to help small businesses dealing with the COVID-19 crisis:

- On April 13, Commissioner Lara ordered insurance companies to return a portion of premiums to businesses and drivers affected by the COVID-19 pandemic for March, April, and May.
- The order covers at least six lines of insurance where the risk of loss has fallen as a result of the pandemic.
- As a business owner, you should not have to do anything to receive the refund, and insurance companies must provide this relief as soon as possible.
- This builds on an action Commissioner Lara took last month to request insurance companies give a 60-day grace period for businesses to pay premiums through at least July 14.
- Many insurance companies have honored that request by offering flexibility to consumers and businesses during this national emergency.

Business Interruption Insurance

- Many businesses have looked to their insurance policies for possible coverage.
- Each insurance 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 such policies cover losses due to COVID-19.
- Some insurance companies are denying business interruption claims without a thorough investigation or discouraging you from even filing a claim. That is simply unacceptable.
- On April 14, in response to numerous complaints from businesses, public officials, and other stakeholders, Commissioner Lara required insurance companies to comply with their contracts and California law by fairly investigating all business interruption claims caused by COVID-19 – just as they would for any disaster.

Insurance Fraud

- Be on the lookout for fraud and insurance scams – and report any suspicious activity to the Department of Insurance.
- Here are some points for small business owners and managers to keep in mind to help protect your interests as you do business during the uncertainty surrounding COVID-19.
 - 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.
 - Report suspected insurance scams and fraud by calling CDI at 800-927-4357 or through our website at insurance.ca.gov.
- Contact the Department of Insurance via phone at 1-800-927-4357 and through their website – insurance.ca.gov – for assistance with claims

Xiomara Peña, California Program Director & National Latino Entrepreneurship Director Small Business Majority

- In California, nearly 49% of private sector workers are employed by small businesses.
- Paycheck Protection Program (PPP):
 - Since the beginning of COVID-19, over 659 billion dollars have been allocated through this federal program.
 - These funds have not been exhausted there are still lenders providing PPP loans.
 - On May 28th, the house of representatives passed the Paycheck Protection Flexibility Act. The Paycheck Protection Flexibility Act is pending final signature and implementation.
 - The Paycheck Protection Flexibility Act will provide an extended forgiveness period from 8 weeks to 24 weeks.
 - The Paycheck Protection Flexibility Act will also reduce the amount needed to use on payroll from 75% to 65%. Giving you the option to spend a little more on non-payroll costs.
 - The Paycheck Protection Flexibility Act will also increase the loan maturity from 2 years to 5 years with deferral also extended.

Patrick Nye, Regional Director, Los Angeles Small Business Development Network

- SBDC is available to provide technical assistance, with over 150 small business experts at no charge. These services include generating a business plan, funding and marketing.
- During COVID-19, the focus has shifted to assist with loan applications. Experts are available to help with PPP, EIDL, forgiveness of the PPP loan, unemployment applications and re-opening strategies.
- Visit <https://smallbizla.org/> or call 866-588-7232 to get matched up with a small business advisor

Constituent/ Small Business Owners Questions

1. Regarding workers compensation why are owners who are covered under workers comp having to pay insurance when at time they can't even draw a paycheck?

Is there a new rule regarding workers' comp for employees that at working from home? Thought I heard workers' comp is not having to be paid on those employees, true or false?

Commissioner Ricardo Lara: First, I included worker's compensation insurance in my April 14 order – for exactly this reason. Many businesses have seen their payrolls fall, and workers sent home or laid off. You should see your worker's compensation insurance costs decrease as well.

You should contact your insurance company if they have not already provided you a reduction – and contact my Department if you are not satisfied with the response at 800-927-4357.

For the second question -- I already mentioned Governor Newsom's executive order from May 6 on worker's compensation. It creates what is called a "rebuttable presumption" that someone who gets sick from COVID-19 while working constitutes a workplace injury.

While this makes it more likely an employee could receive workers' compensation if they get sick – there are a couple of things that businesses should know:

- 1) "Rebuttable presumption" means that employers will have a chance to prove that the illness is not work-related.
- 2) The presumption is not open-ended – it will stay in place for 60 days from the date of the executive order.

It is important to note that it will take some time to see the impact of COVID-19 on our workers' compensation system – so we do not know how it will affect future rates.

I want to address the second part of the question: 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.

And 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, two weeks ago, 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.

2. What can be done about the thousands of tenants and landlords that pay premiums for business interruption insurance that have clauses that exclude coverages for viruses.

Commissioner Ricardo Lara: If you suffered damage due to the civil unrest, your policy typically includes coverage for loss of business income that resulted. You should look at your policy and contact your insurance company to see what coverage applies.

But COVID-19 is a different situation because of the exclusions we are seeing in many policies.

We have received a number of requests for assistance regarding denied Business Interruption claims due to COVID-19. Since most of these are fairly new cases, we are still investigating the issues.

While many commercial policies have terms and exclusions that create a challenge to getting claims paid under your Business Interruption coverage, not all policies are the same. We would need to look at the specific policy to better understand that coverages and exclusions may exist.

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.

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.

Deputy Commissioner Tony 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. However, 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. 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: <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. While it is true that many commercial policies have provisions that may exclude coverage for business interruption under the circumstances, the CDI will review the claim to ensure that your insurer is properly investigating your claim and following all laws and the provisions in your contract.

3. Senator Lena Gonzalez addressed the following statements:

The shutdown (stay at home) was initially done to help "flatten the curve" so we could have the infrastructure in place. It's in place now? So let's remove the stay/safer at home.

Hospitals have plenty of room to treat covid-19 patients. In fact, nurses are being laid off or furloughed. Why? Let's get back to business as usual.

Masks were intended to help us to stop touching our face. Why are they still needed?

Senator Gonzalez: California is currently in the second stage of Gov. Gavin Newsom's four-stage plan to gradually reopen the state amid the COVID-19 pandemic.

- Some counties are charting their own path to reopening independent of the state's guidelines and in Los Angeles County, Grocery stores, pharmacies, banks and post offices, etc. are open, Dine-in restaurants are open, Indoor and outdoor retail shopping can reopen at 50% capacity, and Golf courses, drive-in movie theaters, and hair salons have reopened.
- We are happy to see businesses return to some form of normalcy and see the curve flatten, but we must continue to be conscious, we currently have 119,347 cases and 4,374 lives have been taken from this virus.

- As we begin opening up California, we should do our best to prevent anyone from transferring COVID-19. Some people with COVID-19 have mild to no symptoms, and may be spreading the virus unknowingly. For the safety of our fellow residents, a cloth mask can help individuals cover a cough or sneeze; reducing the spread of germs... Cloth masks could help cut down how far the virus spreads. Cloth masks can prevent you from touching your face, and can be a visual reminder to practice social distancing.

4. How our city representatives aiding business owners in reaching EDD for funding through the pandemic assistance program. Is there ways to augment the EDD resources and/or create local drop-offs of applications?

Would the state or local governments consider offering grants to small business owners to offer services to impacted residents at a discounted rate with subsidies from government agencies?

Xiomara Peña: One way the state has been offering grants to business owners is the, Great Plates Initiative. In the city of Long Beach, if you are a restaurant establishment and want to participate in this program contact Crystal Sladen (562) 570-4636 (option 5) or email greatplateslb@longbeach.gov

Lisc LA is a great resource for grants in the Long Beach area. www.lisc.org/los-angeles/

There is no plan to expand local drop-offs due to restrictions form the shelter in place order.

Patrick Nye: EDD is overwhelmed at the moment and patience is needed. Many people are using their Assembly/Senate office to assist them in getting updates on their applications. Please also reach out to SBDC (Small Business Development Centers) we can assist you by answering general question. You can also contact the EDD directly using at: 833-978-2511

5. I am a small fitness studio offering circuit training with a max occupancy of 25 people, we only have 9 stations so we never meet 50% of the max. Will Long Beach and LA County reclassify our small micro gyms so that we are not lumped in with the Big Box gyms?

Senator Gonzalez: When Governor Newsom discussed the plan for reopening our gyms, he pointed out that the fitness industry is multi-faceted and he doesn't want to be naive and just put out something bland that doesn't meet the unique criteria and considerations. So, once Governor Newsom issues that guidance and the county implements their version and I am sure consideration for small micro gyms will be discussed. The Governor says he hopes the state can release guidelines for reopening gyms sometime this week or early next week.

6. Can you please elaborate more as to why you decided to co-sponsor SB939 and what your hopes are for small businesses as it relates to the bill if it were to pass.

Senator Gonzalez: I am joint-authoring SB 939 with Senator Scott Wiener to protect small businesses who have been severely impacted by the Covid-19 pandemic and its resulting economic challenges. Countless mom-and-pop, and immigrant-owned small business throughout our communities have been financially impacted by the pandemic, and those who operate on an already thin margin are facing the threat of eviction and closure because they can't pay their rent.

- SB 939 is a time-limited solution to the threat of mass evictions of small business that will establish a moratorium on eviction for severely impacted small businesses, allow extra time for tenants to repay rent that is owed, and in some cases require landlords to come to the table and discuss revising leases for small restaurant and hospitality business.

- Keeping the small businesses, restaurants, and shops that serve our communities open will be a critical part of our State's economic recovery.

7. Are you seeing the same reduction of accidents in commercial vehicles (as with regular vehicles) and if so, is there a way you can compel commercial-truck insurance companies to return money (excess savings) to their policyholders?

CA Insurance Commissioner Lara: There are strong indicators that the risk of accidents has fallen sharply due to Governor Newsom's stay at home orders.

Obviously, those who are not driving pose very little risk of loss, but for those essential businesses that must use our roads, these drivers are traveling on roads with substantially less traffic.

Early evidence, including a U.C. Davis Special Report on the Impact of COVID-19 Mitigation on Numbers and Costs of California Traffic Crashes, suggests that the number of accidents in the state have declined substantially.

That is exactly why I ordered companies to refund a portion of premiums, including for commercial automobile insurance lines.

This could be in the form of a premium credit, reduction, return of premium, or other adjustment that gets funds back to you or reduces what you owe in the future.

The amount you get back will vary by company and policy. In many cases, it will be a percentage of your premiums for March, April and May.

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

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

I encourage commercial trucking and delivery businesses, like all commercial businesses, to contact their insurance provider to ask how your company is fulfilling the Order and see how they will be getting their refunds.

On April 10, I also asked insurance companies to extend auto insurance coverage for drivers who are using their personal vehicles to fulfill deliveries for California's essential businesses during the COVID-19 pandemic.

This action ensures that businesses can continue to provide essential goods to residents and families at their homes and that delivery workers are protected at all times so that they may continue their work.

Additional Resources

Senator Lena Gonzalez Contact Information:

- Long Beach District Office Phone: 562-256-7921
- Email: senator.gonzalez@senate.ca.gov
- Website: <https://sd33.senate.ca.gov/>

CA Insurance Commissioner Ricardo Lara and the Department of Insurance Contact information:

- Phone: 800-927-4357
- Website: insurance.ca.gov

Link: <http://www.insurance.ca.gov/01-consumers/140-catastrophes/Coronavirus.cfm>

Mayor Robert Garcia Contact Information:

- Email: mayor@longbeach.gov

Xiomara Peña, Small Business Majority Contact Information:

- LA Office Phone: (818) 470-0377
- Website: smallbusinessmajority.org
- Link: <https://smallbusinessmajority.org/covid-19-daily-updates-for-small-businesses>

Pat Nye, SBDC Contact Information:

- Long Beach Office Phone: 866-588-7232
- Website: Smallbizla.org

IBank

www.ibank.ca.gov/small-business-finance-center/

Work Sharing Program through EDD.

www.edd.ca.gov/unemployment/Work_Sharing_Program.htm