

RICARDO LARA

INSURANCE COMMISSIONER

California Department of Insurance

**Notes – Senator Wieckowski Small Business Tele-Town Hall
Friday, May 29, 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 Senator Bob Wieckowski, hosted the following small business experts to address issues faced by California’s small businesses:

- Dennis King, Director, Silicon Valley Small Business Development Center
- Margaret Jackson, SBDC Director Alameda/Generalist (Alameda County Small Business Development Center)
- Julie Clowes, District Director, U.S. Small Business Administration, San Francisco Branch
- Tony Cignarale, Deputy Commissioner for Consumer Services and Market Conduct
- Alec Stone, Legal Branch, Department of Insurance

Senator Bob Wieckowski

Good morning, everyone. Thank you so much for taking the time out of your morning to join us today. I am Bob Wieckowski, and I represent the 10th Senate District in the California State Legislature.

Today, you will hear from elected officials and representatives from agencies that specialize in providing resources to small businesses.

I cannot express how difficult of a time this is for many, if not all small businesses in California. We are California. We will get through this. And, if we do it right, we can be even stronger on the other side than we were before the COVID-19 pandemic hit.

So far, we’ve successfully flattened the COVID-19 curve. We need to keep that up. Now, we also have to flatten the downward curve in our budget and economy.

Thanks to a decade of responsible budgeting and sound fiscal management, California is now better prepared for this emergency than we would have ever been before.

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We must build on that foundation by taking bold action and making smart investments, even as difficult decisions lie ahead. The state's Employment Development Department (EDD) has already spent over \$8 billion in assistance to the unemployed and small businesses. My District office has been assisting hundreds of constituents as well as fielding thousands of calls and e-mails inquiring about such programs.

The Senate's proposed \$25 billion Economic Recovery Fund will go where it is needed most: small businesses and workers, students and schools, public health and safety, and accelerating fire prevention and other infrastructure projects.

When we make new investments in difficult times, they should be made through the lens of jobs, jobs, jobs. That's what we'll be doing with the Economic Recovery Fund: creating reentry opportunities and helping people come out of the downturn with good, middle-class jobs.

It sounds like a cliché, but we are truly in this together. The state will continue to work with the federal government and local municipalities to ensure that our constituents get the necessary aid they need.

I now have the honor of introducing my good friend, California's 8th Insurance Commissioner, Ricardo Lara. Raised in East Los Angeles by immigrant parents, Commissioner Lara made history in 2018 by becoming the first openly gay person elected to statewide office in California's history. Commissioner Lara previously served in the California Legislature, representing Assembly District 50 from 2010 to 2012 and Senate District 33 from 2012 to 2018. Commissioner Lara earned a BA in Journalism and Spanish with a minor in Chicano Studies from San Diego State University. I have had the pleasure of knowing the Insurance Commissioner for a long time; serving together in both the Assembly and the Senate. Please welcome Commissioner Lara.

California Insurance Commissioner Ricardo Lara

Thank you, Senator Wieckowski, for your leadership during this difficult time.

As we look ahead to getting our economy back on track we have a lot of work to do to assist small businesses and their workers.

New data continues to show unprecedented job losses in Alameda and Santa Clara counties.

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

On April 13, I ordered insurance companies to return a portion of premiums to businesses and drivers affected by the COVID-19 pandemic for March and April. "Stay at home" orders and reduced losses have now continued – and earlier this month I extended my order to include May as well.

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

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1. Private passenger automobile insurance
2. Commercial automobile insurance
3. Workers' compensation insurance
4. Commercial multi-peril insurance
5. Commercial liability insurance
6. Medical malpractice insurance

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 money back in your pockets or reduces your future costs when you need it most.

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 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.

This builds on an action I took last month to request insurance companies give, at minimum, a 60-day grace period for businesses to pay premiums. Many insurance companies have honored that request by offering flexibility to consumers and businesses during this national emergency. On May 15, I extended my grace period request until July because Californians continue to face unprecedented challenges due to the pandemic.

My Department has also received a number of complaints regarding 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 proper interpretation of these policies and whether such policies cover losses due to COVID-19.

While these cases move through the courts, I have taken several significant steps to address business interruption.

I have learned that 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, I 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.

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My Department will be watching to make sure they do.

On May 6, Governor Newsom signed an executive order extending workers' compensation eligibility for workers who were exposed to or contracted COVID-19.

This order applies to any workers who tested positive or were diagnosed with COVID-19 after the stay at home order was issued on March 19, and within 14 days of performing a labor or service at a place of work.

The Governor's action will help people recover and get back to work, and give peace of mind to those who are keeping our economy going as we take steps to reopen the state.

This is a rebuttable presumption, meaning that employers will have a chance to prove that the illness is not work-related. The presumption 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.

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.

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.

Last week, 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 will review the proposed regulations and determine whether they are consistent with my overall mandate to reduce premiums to reflect reduced risks.

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 Morgan Hill that serves Santa Clara County and an office in Benicia that serves Alameda County.

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.

While we have transitioned a majority of staff to telework 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 -- to assist you with your claims.

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

Today two of our Department staff are on this call to answer questions:

Deputy Commissioner Tony Cignarale and Alec Stone from our Legal Branch.

Senator Bob Wieckowski

Next, I would like to introduce Margaret Jackson, Director of the Alameda County Small Business Development Center. Margaret Jackson's background includes over 30+ years in the business and multi-media production industry. She is a respected Bay Area Small Business Radio Personality leader on AM 1220 KDOW & iHeart radio, Small Business Magazine Publisher, and the Director of the Alameda County Small Business Development Center. As a television producer, her credit list is extensive. She has worked with high profile celebrities and organizations throughout her career. Jackson has produced and directed client projects for CBN, TLN, TBN, INSP/iLIFE, KTSF, KLOVE, KFAX, KDOW, KNTV/NBC11, PBS, SJ 15, CreaTV, 180i/Cisco Systems, and more. Special program guests have included NFL legend Jim Brown, recording artists Smokey Robinson, James Ingram, MC Hammer, Howard Hewitt, Yolanda Adams, and even me- Senator Bob Wieckowski!

As an expert market communicator and a confidence builder for business professionals and small business owners, her professional arsenal is vast.

Please welcome Margaret Jackson!

Jackson

The Alameda County Small Business Development Center is hosted by Ohlone Community College. We are currently helping businesses pivot. Right now they are receiving EIDL and PPP resources or maybe third party resources. The question then becomes – where do we go from here? How do we

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spend this money? We are able to help you. You can apply at <https://www.acsbdc.org/> . If you are already a client, reach out to your advisor. We have specialists and generalists to help you. Information you share with us is private. We offer credit courses to sharpen your skills. Also check with your city as they are all doing something different.

Wieckowski

Next, let's welcome Dennis King, Director of the Silicon Valley Small Business Development Center. Dennis serves as the Director for the SBDC Hispanic Satellite/Silicon Valley and Hispanic Chamber of Commerce Silicon Valley and was educated at San Jose State University and Foothill College. Under his leadership a first-in-the-nation pilot "SBDC Hispanic Satellite" center was founded and earned Top Economic Impact awards in the Northern California Region. He has been active in U.S. politics on local, state and national levels. Dennis has worked in sales, marketing and communications for a number of startup companies in Silicon Valley. He was a general contractor and president of an energy conservation services company, and editor of a local regional magazine, a former marketing director and high tech editor of another local magazine, and contributing writer to other publications. Please welcome Dennis King!

King

The whole purpose of an SBDC program is to provide you, the entrepreneur, workshops and 1-1 advising (in multiple languages). Access to capital is one of our core areas so we work with banks and credit unions while we represent the small business. Several local cities have their own grant and loan programs. The City of Sunnyvale just launched a \$1.3M program to give money away. Check with your local city to see what they are doing to support small businesses. Other resources: 1) Kiva (a backed lender) doesn't require you to be a citizen; 2) Webinars and workshops to help you learn how to you get your customers to come back as well as "what's the new normal going to look like?" We have helped restaurants to get back to the new normal. We help retail outlets. We can help you.

Wieckowski

Our final panelist is Julie Clowes. Julie is the District Director of the Small Business Administration's San Francisco District Office (SFDO) where she oversees delivery of the SBA's programs and services within 14 counties in Northern California. Prior to joining the SFDO she was the Deputy District Director of the SBA's Washington Metropolitan Area District Office overseeing the largest 8(a) portfolio in the country with approximately 1,000 firms receiving \$4-6 billion in contracts annually. Prior to joining the district office, she was the chief marketing and outreach attorney with the SBA's Office of General Counsel handling issues impacting its outreach efforts including external agency partnerships, technology and use of social media. She began her SBA career in 1997 as the Public Affairs Specialist for the Michigan District Office. Prior to joining the SBA, she worked for the Michigan Small

Business Development Center as an International Trade Specialist where she co-authored “Trade Secrets: The Export Answer Book.” Julie is a graduate of the Excellence in Government Fellowship program and President’s Management Council Fellowship program and has a BA in International Studies from Bradley University, and an MBA and JD from Wayne State University. Julie also volunteers for many colon cancer advocacy initiatives and helped establish the Scope It Out 5K Run/Walk for colon cancer awareness in Washington DC and currently is a Board member of the Colon Cancer Alliance. Let’s welcome Julia Clowes.

Clowes

Everything that SBA provides can be broken down into four buckets:

1. Access to capital
2. Access to government contracts
3. Counseling and training
4. Disaster relief program

We have special COVID-19 related programming. Here are some highlights of programs that are still available and open:

1. Debt Relief Program – this is for people who have existing SBA debt. SBA will now pay six months of principal and interest (P&I) on these loans. For assistance, reach out to your lender. If you are trying to obtain a traditional loan, and funds are disbursed before September 27, 2020, we will also pay six months of P & I.
2. Paycheck Protection Program – still has \$100B left in this program. Encourage all small business to apply. Available through commercial lenders.
3. Economic Injury Disaster Loan (EIDL) Program – only available for new applicants for agriculture businesses because they previously were not eligible but under last round of legislation, they are now eligible. Window open now.

All SBA and resource partners are all open for businesses and available to help at no charge.

Wieckowski

Thank you all for submitting your questions via email. We will try to answer as many questions as we can today but if we are not able to answer your question during the town hall, please know that your question will be answered directly from the relevant organization. The town hall is being recorded and we will make the recording available on our website and the Department of Insurance’s website. Also available after the event will be summary notes of the town hall with contact and resource information.

Questions

1. I am self-employed and am the sole proprietor of my LLC, with no employees. I had to refrain from paying my 2019 taxes in April because of the pandemic. With the 1st quarter of 2020, I now owe over \$16,000 in taxes. Although business has been slow, I have been able to pay

most expenses so far but taxes are the biggest burden. I was approved for an SBA loan. May I use this loan to pay my taxes?

Clowes: I am not certain if this question refers to the EIDL program or the PPP program. If PPP (which is very narrowly focused on payroll), you cannot use the proceeds to pay for taxes. If EIDL loan, you may use the proceeds to pay for business taxes.

2. I want to know whether Worker's Comp insurance companies will be required by California to adjust their calculated premiums to take into account that many companies, under these new COVID-19 programs, are paying employees who are not doing any work. They are getting hours and hours of sick pay in order for the employers to both give them an income and have them available to come back to work when reopening arrives. There is absolutely no liability on the part of the insurance companies regarding this type of payroll. But under the normal policy computations Worker's Comp costs for these wages could be a very large amount that the employers will have to come up with. Windfall for Big Insurance!

Commissioner: The bulletins that I mentioned earlier require insurers to reduce workers' compensation premiums for March, April and May to reflect the reduced risk of loss resulting from employees either not working or working at jobs with a lower risk of loss.

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.

Last week, 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 will review the proposed regulations and determine whether they are consistent with my overall mandate to reduce premiums to reflect reduced risks.

3. As an owner of a group fitness studio we believe people should continue to work out and eat right more now than ever. While it is important to SIP, there are some inherent challenges to the immune system to simply staying indoors. I would like to know where you deem health/fitness on importance and what action steps are being taken to ensure we open quickly and safety?

Wieckowski: The Governor's Office announced that in a week or so, guidelines will be announced regarding the safe re-opening of our state's gyms and fitness centers. The Governor does deem this as important, as State Public Health Officer Dr. Sonia Angell, state coronavirus economic task force chair Tom Steyer and six California-based fitness industry representatives joined the Governor recently to discuss the state's efforts to establish re-opening guidelines and how those in the industry are altering their practices and protocols to keep customers and members safe.

For fitness centers to reopen, their home counties must submit a 12-page application, called a “local variance attestation,” which details criteria to assess a county’s COVID-19 stability and safety readiness. I will make sure my office keeps you posted on the announcement. Additionally, the Governor’s Office posts all updates on the central website at covid19.ca.gov.

4. I paid my insurance and understood it included business interruption coverage, why isn’t loss of business due to the COVID19 pandemic covered?

Commissioner: The first thing to know is that not all policies are the same. We would need to look at the specific policy to better understand what coverages and exclusions you have.

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.

I issued a Notice on April 14th to all agents, brokers, and insurance companies reminding them of their obligations under the law to fairly investigate all business interruption insurance claims submitted by businesses.

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

Tony: 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: 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.

5. My wife and I are the owners (without employees) of commercial and residential rental properties in Fremont and they are the primary source of our income. We have both commercial and residential tenants that are not paying their rent and utilities. What sources of relief are there for landlords without employees?

Wieckowski: Senate leadership earlier this month unveiled new plans to provide long-term aid for struggling renters and landlords and create a \$25 billion economic recovery fund.

The housing proposal would allow landlords to receive tax credits for rent payments missed by their tenants, in exchange for promising to halt evictions. Tenants would be able to repay the state over 10 years for missed rent under the voluntary program. The intent is to keep tenants housed and keep landlords out of foreclosure.

Clowes: Watch and see if the SBA gets more funds from Feds for EIDL. Great program for landlords to apply.

6. What are my options if I do not have coverage for business losses due to the COVID-19 virus?

Commissioner: If you truly don't have any Business Interruption coverage, you should look at the various federal, state, and local programs available through the SBA and other sources.

Tony: As mentioned earlier, however, if you have a commercial policy, but your insurance company is telling you that you don't have Business Interruption coverage, or that there is no coverage when losses are caused by a virus, 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. The Department of Insurance can also walk you through your policy to make sure what the insurance company is telling you is accurate.

7. I have a question regarding establishing a small business during the COVID-19 Pandemic. I am currently unemployed and receiving unemployment benefits started from last month. However, this money is not enough to cover all my bills. To help making a little money to pay my mortgage and my bills, I am planning to start a small business in the next few months. My question for you is if my business set up in the next few months, would my unemployment benefits will be affected or cut as well even though I don't make money just yet? Do you have some kind of programs such as Self-Employment Assistance Program (SEAP) available during this time period to assist us for our survivals during this tough time?

Jackson: This is a common question even before COVID. The state of California does not have a SEAP program and this question is better responded to by the EDD. It is a voluntary program so it might be something that you want to suggest or recommend. We could work together to support these types of programs.

8. You issued a bulletin requiring insurance companies to refund premiums -- will that be for my total monthly payment and when will I get that?

Commissioner: I ordered premium refunds because for many people 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 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 Alec Stone from our Legal Branch to give more details about this:

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

In many cases the 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 reductions and credits.

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.

Recognizing the unique nature of each insurer’s policyholder base and insurance coverage offered, we directed each insurance company to propose the best way to immediately return premium to policyholders. We also directed each insurer to report back to the Department how each insurer will fulfill this directive within 60 days (or by June 12, 2020).

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 1 (800) 927-4357 or through our website at: www.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.

9. What is the state doing to increase housing supply in the Bay Area and the state?

Wieckowski: In this crisis, the state took the necessary action to prevent Californians from losing their property by implementing an eviction moratorium. However, this does not increase the supply of affordable housing for our residents. The Senate leadership introduced a package of legislation dealing with tackling the housing crisis this year. I voted for two of these bills in committee:

- SB 1085 (Skinner) would enhance existing Density Bonus Law by increasing the number of incentives provided to developers in exchange for providing more affordable housing units.
- SB 902 (Wiener) allows local governments to pass a zoning ordinance that is not subject to CEQA for projects that allow up to 10 units, if they are located in a transit-rich area, jobs-rich area, or an urban infill site.

In regards to providing housing for our homeless population, both houses of the Legislature passed \$1 billion in emergency funding in March to fight the spread of the coronavirus. California has deployed massive resources to get these vulnerable residents safely into shelter, removing regulatory barriers and securing trailers and hotels to provide immediate housing options for those most at risk. Helping these residents is critical to protecting public health, flattening the curve and slowing the spread of COVID-19.

Jackson: Connect with your local county SBDC to help you move your business forward.

Wieckowski

Thank you for tuning-in today. We hope that this event provided you with useful resources and contacts on how to apply for financial assistance in these times. If we did not have time to get to your question today, my office will be working with the Department of Insurance and other agencies to make sure your inquiries are answered. We are California. We are called the Golden State for a reason.

Once again, thank you so much to Commissioner Lara, our panel, and all of you for joining us today. Be safe, and have a wonderful weekend.

Additional Resources

Request Assistance with the Department of Insurance:

(800) 927-4357 www.insurance.ca.gov

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

Alameda County Small Business Development Center

<https://www.acsbdc.org/>

Silicon Valley Small Business Development Center

<https://www.svsbdc.org/>

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