

RICARDO LARA

INSURANCE COMMISSIONER

California Department of Insurance

Senator Ben Allen's Small Business Insurance Tele Town Hall

Friday, July 17th

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 Ben Allen hosted the following small business experts to address issues faced by California's small businesses:

Participants:

- California State Senator Ben Allen
- California Insurance Commissioner Ricardo Lara
- California Program Director, Small Business Majority, Xiomara Peña

California State Senator Ben Allen

- Senator Ben Allen represents the 26th senate district which covers the coast from Palos Verdes up to the Palisades and over through Hollywood.
- Between a global pandemic and a modern civil rights movement, we are experiencing intense social changes at a rapid pace.
- The 26th district saw loss from both of these events, with small and large businesses being impacted by the COVID-19 crisis and shutdowns while also being targeted by severe damage as a result of civil unrest.
- The Pro Tem asked the legislators to focus on three areas of immediate concern: housing and homelessness, wildfires and COVID-19. Everyone cut down their bill packages to accommodate this request, with many legislators going from approximately 20 bills to 5.
- Unfortunately, due to an outbreak in the Assembly, the Legislature is further delayed from resuming our work and as we have seen here locally in LA County, the numbers are drastically increasing.

California Insurance Commissioner Ricardo Lara

- Commissioner Lara, "Along with COVID-19 and Stay at Home orders, we all have been witnessing our state and nation reckon with another huge challenge in recent weeks – the recurring injustice of police brutality that has caused much pain in the African American community for generations. We are all heartbroken with what is going on."
- 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:

- 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.
- To date, California automobile insurance companies have provided \$1.2 billion in savings to drivers.
- That \$1.2 billion includes:
 - More than \$1 billion in premium relief for more than 18 million policyholders while Californians struggled during the start of the COVID-19 pandemic
 - Savings from an additional \$180 million in future rate increases that insurance companies reduced in response to the orders that I issued since the beginning of this health crisis.
- 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.
- 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.
- Be on the alert for those offering bogus workers' compensation policies. Verify the legitimacy of the selling agent and the policy offered. Verify the agent's license on our website and contact their insurance company directly to verify the policy.
- 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 Small Business Majority

Small Business Majority is a national small business advocacy organization.

SBM primarily works on research advocacy education on a whole host of different issues to really support the connection between small businesses and policy makers in insuring that prismatic policy solutions are passed and put forward to support the small business ecosystem and insure an equitable economy that is inclusive of its diverse communities

SBM has been doing quite a bit of pivoting work in rapidly responding to the needs of small business owners which primarily have been around funding, starting to see a rise on legal issues, accessing business development technical assistance and a whole host of other priorities. Resources listed below.

insurance.ca.gov 800.927.4357

Constituent and Small Business Owners Questions

1. Can the Commissioner provide any insight regarding insurance carriers denying coverage for business interruption losses sustained when access to the insured property is specifically prohibited by order of civil authority?

Answer: (Commissioner Lara) The first thing people need 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 a policyholder has.

If a business has Business Interruption coverage, but their insurance company is telling them that these losses are not covered due to exclusions in their policy, we recommend that you file a formal claim with their insurance company and start creating that paper trail.

As I mentioned earlier, insurance companies are legally required to fairly investigate a claim and formally respond back with their coverage decision and the reason for any denials they may make.

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 a 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, we would need to see the entire policy as well as the circumstances applicable to the 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 they file a "Request for Assistance" with my Department by calling us at (800) 927-4357 or through our website at: www.insurance.ca.gov.

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 the insurer is properly investigating your claim and following all laws and the provisions in the contract.

We have had some success in getting denied business interruption claims and event cancellation claims paid, so it's worth you contacting us to let us take a look.

2. What resources are out there to support small mom-and-pop landlords with mortgage assistance and/or rental assistance (being paid directly to them and not the tenants)? Assistance to small mom-and-pop landlords will help to prevent another housing crisis and prevent more homelessness due to landlords losing their buildings because tenants are not paying the rent that we need to pay the mortgage.

Answer: (Xiomara) Back when all of this unfolded as many of you know the governor did remove certain State laws, restrictions that on the ability of local government to oppose limitations on partial evictions, that order was extended and is set to expire July 28th and expect that there might be another extension. SBM recognizes that commercial relief assistance is something that is necessary, there was a Senate bill that did not pass the Senate appropriations committee by the authors Senator Winner and Senator Gonzalez, which would have supported some of the opportunity for folks in this process.

The City of Los Angeles does have another rental assistance relief program that is open for the landlords to be able to get paid directly through the City. Tenants have to apply for it and that application is set to close.

Legal Services that may be required or rendered, there are great nonprofits supporting the City of Los Angeles and surrounding unincorporated County.
Contact <https://hcidla.lacity.org/> for assistance and more information if you are looking for legal services.

3. With the current unrest throughout neighboring communities, businesses want to know if damage to their business property and inventory by riots and looting is covered by insurance?

Answer: (Commissioner Lara) Standard commercial policies typically include coverage for damage to the insured premises and other business property resulting from looting, vandalism, and riots.

Whether a specific loss will be covered depends on the actual language in the policy and any coverage exclusions that may apply.

It is important to check your specific insurance policy for the following coverages:

- Vandalism and Malicious Mischief: These both involve willful destruction of property, and are closely related.
 - Riot and Civil Commotion: These both involve a revolt by a group of people in a public place – a civil commotion is similar to a riot but involves a greater number of people. Insurance policies often list these together.
 - Business Income Coverage: This covers your loss of income when you have to suspend operations, and typically is triggered by a direct physical loss from a covered peril in your policy, such as a fire.
 - Civil Authority Coverage: Business income coverage will typically include civil authority coverage, which protects your loss of income if a civil authority prohibits access to your business, such as a local government order. Businesses that have this coverage and are forced to limit their hours or suspend operations during rioting, vandalism or civil commotion may be covered after an initial waiting period.
 - Glass Coverage: Many commercial policies cover glass breakage. But we have seen some companies requiring separate glass coverage be added to the policy for an additional premium.
- 4. Is there any way that the Senator's Office can ask the County to allow for reasonable exceptions for those businesses that are following best practices? For example, breweries and brewpubs have been lumped into a broad category of closures despite essentially needing to have a sterile environment to produce beer. In many cases the brewery properties have plenty of open space and air circulation that would comply with health and safety protocols. Now the health order is even prohibiting them from selling alcohol without food.**

Answer: (Senator Allen) In this moment, when we're all watching the coronavirus detection and hospitalization numbers very closely and when these numbers are rapidly climbing, I expect that unless those metrics improve it is very unlikely that the Governor or LA County is going to be loosening any restrictions.

Governor Newsom's most recent order called for breweries and bars to close unless they could serve beverages, accompanied by food, outdoors.

LA County does not have a choice to be more relaxed in its shutdown orders than the state, so whether or not a certain brewery or pub is following certain best practices, its hands are essentially tied for allowing them to still operate.

As numbers start falling again, the Governor relaxes his orders and we regain a better handle on the pandemic in our region, if breweries and brew pubs are being treated in an irrational way, I am happy to raise this issue with my counterparts at LA County. I worked with the county when I felt certain businesses were being lumped together unnecessarily, and I am happy to do so again.

It is obviously frustrating to take another step back that delays opportunity for economic recovery, but my top priority is to protect the health of my constituents and make sure there is enough capacity in our healthcare system to treat them if they get sick. That is what I always keep in mind, as tough as it is to see businesses suffer when I want them to succeed.

5. Why are business owners who are covered under workers' comp having to pay insurance when at times they can't even draw a paycheck? Also, is there a new rule regarding workers' comp for employees that are working from home?

Answer: (Commissioner Lara) In response to the first part of this question, I included worker's compensation insurance in my Premium Relief 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. As to the second part of this question – there have been changes to workers' compensation regulations. Under the previous workers' compensation regulations, employers that provided workers with the opportunity to transition from regular work duties to lighter, home-based clerical work were still paying rates based upon the higher job classification.

That does not seem fair to me. So, I issued emergency workers' compensation regulations to make changes to reflect the lower risk of worker injuries in light of the pandemic. These new regulations will mandate insurance companies to recompute premium charges for policyholders to reflect reduced risk of loss consistent with my earlier Bulletins, and will result in savings for many policyholders as businesses.

(Alec): Under these emergency regulations, employers are permitted to reclassify an employee if the employee's duties have changed to a clerical classification, reflecting that employee's lower risk of injury when compared to the employee's previous classification.

This reclassification will reduce the employer's premiums for employees who are a lower risk because they are now working from home even though they may not have previously done so. This change would be retroactive to March 19, 2020, the first day of the Governor's statewide stay-at-home order and conclude 60 days after the order is lifted.

These emergency regulations will also lower premiums for some employers by excluding from premium calculations the payments made to an employee, including sick or family leave, while the employee is not performing duties of any kind for the employer.

This change should lower the employer's rate by reducing the amount of payroll assessed, and the employer will not pay premium for paid workers who are otherwise being furloughed.

This new regulation also excludes claims related to a COVID-19 diagnosis from being included in future rate calculations so that employers are not penalized with higher rates due to COVID-19 claims.

The Commissioner has also adopted rules that will allow us to continue to monitor the overall effect of this pandemic on the workers' compensation market

6. I'm struggling to find grant opportunities. By the time I hear about them, they are gone. Where do I go?

Answer: (Xiomara) Grants are being established by County Departments, City Departments, nonprofit institutions, a cross partnership between a couple of different groups.

SBM has on their platform housed a series of different grants and are updating daily to reflect the different grants that are still open.

Additional grants open right now are TMC Community Capital grant which is available for the LA, San Francisco, Oakland businesses and the eligibility requirements are really relaxed and this is also a grant that can cover property loss as well. Application opened up yesterday and it will close on August 14. If you haven't had a chance to apply you should visit <https://www.tmccommunitycapital.org/grants> Los Angeles regional COVID-19 recovery fund is looking to deploy 3 million dollars in grant available at five thousand and fifteen thousand to micro entrepreneurs, small business and nonprofits. There will be a total of six rounds, the first round has closed. Second round is set to open Monday July 20 and will close Friday July 24. That is a cross collaborative between the City and County with Los Angeles and different banking institutions and they highly encourage business centers to apply for that.

As a business owner experiencing this unprecedented time, don't try to do this alone as it's already isolating to be a business owner and these moments place us in a unique position, lean on the small business development centers and sign up to one of the newsletters of your local small business development center who will be able to advocate on your behalf, connect you to these grant opportunities as they arise.

7. My business is not considered essential, but I am continuing to employ workers and pay my workers' compensation insurance. Can worker's comp insurance companies exclude COVID-19 from their coverage, whether or not they are considered essential businesses?

Answer: (Commissioner Lara) No. Workers compensation insurers cannot exclude COVID-19 from their coverage. All workers affected by COVID-19 on the job are eligible for workers' compensation benefits – whether or not they are considered essential services.

This includes workers engaged in front-line occupations such as health care, emergency services, food production, sales, and delivery, among others.

Workers' compensation also applies to undocumented workers. When I was in the California State Senate, I authored SB 623, which was signed by Governor Brown. This measure expanded protections for undocumented workers in the event they are injured on the job, even if their employer does not carry workers' compensation insurance as required by law.

At the onset of the stay at home orders, I issued a notice to insurance companies to remind them about these existing legal protections for undocumented workers.

We continue to monitor workers' compensation insurance and encourage any business owner who has questions or concerns to call the Department of Insurance at 800-927-4357. Our experts are standing by ready to assist.

8. Is there any hope of support for those business start during the time of the pandemic?

Answer: (Xiomara) If a business started earlier this year, they still will qualify for the federal loan program, there are some grants that they may not qualify for, some of those grants do have requirements that you have to be in business for at least a year. In terms of the Federal loan programs, the requirements they use for businesses in at least one year has been waived and so those would be great products for folks that started their business, are looking for resources, additionally recognizing the economic crisis that we're likely to experience as a result of the Corona Virus we recognize we are in a budget deficit here in California.

Small business owners that started their business, will benefit from the backed capital through the state loan guarantee program. A local CDFI (Community Development Financial Institutions) that is participating in that State program is PACELA, Pacific Community Adventures and a few others.

9. What is the Senator's Office prepared to do to help protect our businesses? With these waves of closures and added costs to safely reopen, combined with drastically reduced revenues, the inability to provide jobs or bring back employees as a result, permanent closure and loss of our small businesses will inevitably hurt the local and state economy.

Answer: (Senator Allen) The reality is we are experiencing one of the most radical shocks to California's economy in our state history. Not every business will survive this pandemic intact, and it would be irresponsible for me, as a government representative, to pretend otherwise.

However, as a Senator, I have supported and voted for a number of state programs to help small business through financial hardship as a result of the COVID-19 crisis.

California's Disaster Relief Loan Guarantee Program is offering \$50 million in microloan guarantees for small businesses that may not be eligible or struggled to secure federal relief. California has authorized small businesses to defer payments of sales and use taxes of up to \$50,000 for as long as 12 months.

The state provided a 90-day extension of tax returns and payments for all businesses owing less than \$1 million and extended the deadline to file a claim for tax refunds by 60 days.

California suspended requirements under the WARN Act, understanding that some businesses may need to shutter too quickly to provide workers with the usual 60-day layoff notice.

California placed a moratorium on commercial and residential evictions and foreclosures, and negotiated a deal with the vast majority of banks and lenders to allow for a 90-day postponement of mortgage payments.

We just passed budget that waives the \$800 franchise tax for the first year of operation for new businesses impacted by the shutdown and also increases California's I-Bank funding to provide more capital to small employers.

I am also currently working with my federal partners in Congress to pass additional funding measures in the HEROES Act. Washington DC, with the power of the Treasury, has far more power than California alone to provide substantial capital to get our business community through this unprecedented time.

The HEROES Act includes an additional \$10 billion to fund economic injury disaster grants.

- It reforms federal small business lending programs, waiving fees, expanding the pool of money available, and increasing loan guarantees to incentivize banks to make more loans to small businesses.
- It acknowledges the reality that many stay-at-home orders have required small businesses to close, and extends the Paycheck Protection Program for borrowers until the end of the calendar year.
- To reach small businesses in underserved communities, the bill sets aside funds for community lenders, with an additional carve-out for small businesses with ten or fewer employees.

And of course, back in California I am continuing to do everything in my power to advocate on behalf of our local business community with Governor Newsom and LA County, including hosting workshops like this one to help provide as many immediately available resources to folks as possible.

I also urge every business owner here, to amplify your voices and continue to tell elected officials at all levels of government, just how bad things are out there. Don't let up.

I always want to do more, so please do not hesitate to call my office with any suggestion at (310) 318-6994.

10. Many businesses are being crushed and may never reopen. What kind of assistance is there for folks whose financial life is on the line?

Answer: (Xiomara) This is a unique moment in history and we know that small business owners, the nation's largest job creators are going to be feeling the grunt of this event.

Recognizing the movement that were in, want to remind people that the small business development center network is a wonderful resource for technical assistance they supported some of the business owners that we have worked with to help them look at their financials and take this time to really reassess the business altogether, the business structure, the business development practices.

For business owners, you may be in an industry that may just be completely devastated and impacted and so shifting and pivoting and just building business resiliency may be the way to go or you may not have the option or the ability of make that shift as quickly as you might want.

Additional Resources

Senator Ben Allen's Contact Information:

- **District Office:**
2512 Artesia Blvd., #320
Redondo Beach, CA 90278-3279
- **Phone:** (310) 318-6994
- **Fax:** (310) 318-6733
- <https://sd26.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>

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>

Small Business Majority Resources:

- Small Business Majority COVID-19 Resource Portal: www.smallbusinessmajority.org/covid-19-daily-updates-for-small-businesses
- Small Business Majority's online platform for access to capital resources & tools: Visit our online resource hub to find info on state and local emergency relief funds: www.venturize.org

Announcements of closures:

- LA Times has a great tool mapping out how your county is impacted: <https://www.latimes.com/projects/california-coronavirus-cases-tracking-outbreak/reopening-across-counties/>
- For the latest updates from the state of California, visit: <https://covid19.ca.gov/roadmap-counties/>

Federal Loan programs:

- Paycheck Protection Program (PPP) opened through August 8, 2020
 - <https://venturize.org/resources/paycheck-protection-program-lenders>
 - List of nonprofit lenders + others
- SBA Economic Injury Disaster Loan (EIDL): <https://disasterloanassistance.sba.gov>
 - SBA Loan Advance **no longer available**
- EIDL to cover property loss: The SBA issued a disaster declaration and is making its Economic Injury Disaster Loan Program available to small businesses who experienced property damage or economic injury as a result of civil unrest that began May 26, 2020. The **SBA disaster declaration covers small businesses and nonprofits located in the counties of Kern, Los Angeles, Orange, San Bernardino and Ventura**. Applications for Property Damage are due by August 17, 2020. Applications for Economic Injury are due by March 17, 2021. <https://www.sba.gov/offices/disaster/dfocw/resources/1663686>

Grants:

- Venturize Direct Link: <https://venturize.org/resources/covid-19-emergency-loans>
- Grant announced by TMC Community Capital for LA + SF + Oakland businesses:
 - <https://www.tmccommunitycapital.org/grants>
- The LA Regional COVID-19 Recovery Fund: <https://www.lacovidfund.org/grants>
 - Will deploy \$3 million in grants available at \$5,000 and \$15,000 to micro-entrepreneurs, small business, an non-profits. 6 rounds.
 - First round closed- second round will open on **MONDAY July 20 and close FRIDAY July 24**

State Resources:

iBank State Loan Guarantee Program - list of participating lenders: <https://ibank.ca.gov/small-business-finance-center/>

#ShopSafeShopLocal - <https://business.ca.gov/shopsafeshoplocal/>

- Free consulting, in 31 different languages, from California's network of small business centers
- Resources and offers from our partners to help businesses operate safely and build a digital footprint
- Latest state industry guidance and county variances
- Personal protective equipment (PPE) through SafelyMakingCA.org, California's new PPE marketplace
- A free digital media toolkit for small businesses and partners