

SEATTLE COMMERCIAL LANDLORD LEGISLATION: COUNCIL BILL 119766

INTRODUCTION

Council Bill 119766, with amendment to narrow the definition of small businesses, passed unanimously on April 13, 2020. The bill was drafted in an effort to mitigate the effects of COVID-19 on the Seattle business community. It allows property owners and landlords to still receive rental payments, but minimizes the rental debt of nonprofits and certain small businesses so that they have a greater chance to remain operational after the civil emergency order proclaimed by Mayor Durkan on March 3, 2020 (“Order”) is terminated.

SUMMARY

- Rent to nonprofits and certain small businesses currently on a month-to-month lease cannot be increased until the Order is terminated.
- Rent to nonprofits and certain small businesses currently on a lease other than a month-to-month basis cannot be increased, unless the increase was previously authorized in a written lease entered into prior to April 13, 2020.
- Leases to nonprofits and certain small businesses cannot be renewed or entered into if the new lease requires a higher rental payment than was due under the expired lease.
- Nonprofit and certain small business tenants that fail to pay rent due during, or within six months after the termination of, the Order may elect to pay such overdue rent in installments on a payment schedule.
 - A written installment payment schedule will need to be negotiated and entered into between the landlord and tenant, provided that 1) it may not require the tenant to pay, in addition to ordinary rent due for that month or payment period, more than 1/3 of one month or payment period’s overdue rent, unless agreed to by the tenant, and 2) repayment of overdue rent shall be paid in full to the landlord no later than one year after the termination of the Order.

WHO QUALIFIES

- Nonprofit corporations with tax-exempt status and certain small businesses
- For a small business to qualify, it must meet all the following criteria:
 1. It can be any business entity that is owned and operated independently from all other businesses, and any franchisee with five or fewer franchise units
 2. It must have fifty or fewer employees per establishment or premises

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3. It has either been forced to close due to the Order or the Governor's emergency order, or has gross receipts from the previous calendar month in 2020 that are less than 70% of its gross receipts for the same month in 2019, and
4. Is neither a general sales or service business with ten or more establishments in operation anywhere in the world, nor an entertainment use business with five or more establishments in operation located anywhere in the world.

NOTE: The "sales or service" business and "entertainment" business categories are terms of art used in the City's land use code. If tenants have questions about whether their business would qualify, then they should contact one of HCMP's Real Estate & Land Use attorneys.

Please do not hesitate to contact us with any questions or concerns you may have.

Best regards,



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