



Legislation Text

File #: CB 119829, Version: 2

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to commercial tenancies; temporarily prohibiting the enforcement of personal liability provisions in commercial leases or other rental agreements; declaring an emergency; and establishing an immediate effective date; all by a 3/4 vote of the City Council.

WHEREAS, the coronavirus disease 19 (COVID-19) outbreak was declared a pandemic by the World Health Organization on March 11, 2020; and

WHEREAS, on February 29, 2020 the Washington Governor issued Proclamation 20-05, proclaiming a state of emergency for all counties throughout the state of Washington in response to new cases of COVID-19; and

WHEREAS, on March 13, 2020 the President of the United States declared a national state of emergency in response to the COVID-19 pandemic; and

WHEREAS, on March 25, 2020 the Washington Governor issued Proclamation 20-25, prohibiting all people in Washington State from leaving their homes and all non-essential businesses in Washington State from conducting business (“Stay Home - Stay Healthy Proclamation”); and

WHEREAS, these actions are appropriate for public health reasons but result in severe economic impacts on businesses, families, and individuals in Seattle; and

WHEREAS, these actions in conjunction with self-distancing means cancellations of large events, a decrease in the number of people patronizing places of business, and the temporary closure of many small businesses and not-for-profit organizations, resulting in the loss of income for businesses in multiple industries, including the service and entertainment industries; and

WHEREAS, the economic disruptions caused by COVID-19 will increase the likelihood of businesses and nonprofits struggling to meet existing financial commitments; and

WHEREAS, meeting existing rent obligations are a continuing financial burden on small businesses and not-for-profits and threaten their viability; and

WHEREAS, small businesses and non-profits have reported that their landlords are threatening to come after their personal assets and hold liable other guarantors on lease agreements; and

WHEREAS, the Council recognizes that tenants already at risk of losing their businesses during an unprecedented pandemic should not also be at risk of losing their homes or other personal assets; and

WHEREAS, losing both business and personal assets could have devastating impacts on both the tenant and the economy; and

WHEREAS, The City of Seattle has a heightened interest in preventing more small businesses or non-profits from closing; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council finds and declares that:

A. On February 29, 2020, Governor Inslee proclaimed a State of Emergency for all counties throughout the State of Washington as a result of the confirmed person-to-person spread of COVID-19 in Washington State.

B. The COVID-19 disease, caused by a virus that spreads easily from person to person and which may cause serious injury and death, has spread throughout King County and the City of Seattle.

C. On March 3, 2020, Mayor Durkan issued a Proclamation of Civil Emergency declaring a civil emergency within the City of Seattle based on the confirmed spread of COVID-19 in King County and resulting deaths.

D. On March 11, 2020, the Governor of Washington State and the Local Health Officer for Public Health - Seattle & King County issued parallel orders prohibiting gatherings of 250 people or more for social,

spiritual and recreational activities in King County.

E. On March 13, 2020, the Governor of Washington state issued an emergency order announcing all K-12 schools in Washington to be closed from March 17, 2020 through June 19, 2020 to combat the spread of the disease.

F. On March 16, 2020, Washington Governor Jay Inslee and the Public Health - Seattle & King County Local Health Officer issued parallel orders temporarily shutting down restaurants, bars, and other entertainment and food establishments, except for take-out food.

G. In recognition of the danger that hospitals may become overwhelmed with COVID-19 patients unless the spread of the disease is slowed, on March 23, 2020, Governor Inslee imposed a stay-home order throughout Washington State prohibiting all people in the State from leaving their homes or participating in gatherings with only limited exceptions for participating in essential activities or essential business services.

H. On April 2, 2020, Washington Governor Jay Inslee extended the “Stay Home - Stay Healthy” proclamation through May 4, 2020.

I. On May 1, 2020, Washington Governor Jay Inslee extended the “Stay Home - Stay Healthy” proclamation through May 31, 2020 in recognition that the worldwide COVID-19 pandemic and its progression in Washington State continue to threaten the life and health of our people as well as the economy of Washington State, and remain a public disaster affecting life, health, property or the public peace.

J. On May 4, 2020, Washington Governor Jay Inslee announced a “Safe Start” plan that reopens Washington’s economy in phases and has restrictions on the seating capacity of restaurants during three of the four phases and physical distancing for high-risk populations and worksites during all four phases.

K. As of June 11, 2020, the Washington State Department of Health confirmed 25,171 cases of COVID-19 and 1,204 deaths caused by the virus in Washington State, with 8,611 confirmed cases and 586 deaths caused by the virus in King County.

L. There are at least 38,000 businesses in the City of Seattle employing a minimum of 655,000

individuals. Since the Governor of Washington closed or limited operations of many businesses in the state beginning in March, the statewide unemployment rate went from 5.1 percent in March to 15.4 percent in April. This equates to 199,000 individuals in March, and 610,000 individuals in April who are unemployed. In the Seattle/Bellevue/Everett area, the unemployment rate went from 5.6 percent in March to 14.5 percent in April. This equates to 96,000 individuals in March and 248,000 individuals in April who are unemployed.

M. The impacts of the COVID-19 crisis on the economy, employment, job retention, child care, and businesses has resulted in: restaurants, bars, and other businesses being forced to close; workers being unable to go to work because of illness; the need to care for children home from day care or school or for other family members without paid sick or safe time; and reduced business income due to reduced demand as businesses struggle during the state of emergency proclaimed by Mayor Durkan on March 3, 2020. These impacts have led to a temporary closure of many businesses, which will struggle to reopen, and who still have to pay rent under their lease agreements.

N. This legislation is necessary to respond to the COVID-19 public health emergency because this legislation prevents putting at risk personal assets in addition to business assets, which will maintain stability and decrease the likelihood of homelessness.

Section 2. A provision in a commercial lease or other commercial rental agreement that makes the tenant or one or more persons who are not the tenant wholly or partially personally liable for payment of rent, utility expenses, taxes, fees, or charges relating to routine building maintenance for the leased premises is not enforceable if the tenant is a small business or non-profit and:

A. Enforcement of the provision would occur during the civil emergency proclaimed by the Mayor on March 3, 2020 or within six months after the expiration of the Mayoral Proclamation and the tenant's business or non-profit was subject to in-person limitations under Gubernatorial Proclamations 20-07, 20-13, 20-14; 20-24, 20-25, 20-25.1, 20-25.2, 20-25.3, 20-25.4, 20-25.5, 20-25.6 or any subsequent extensions; or

B. The tenant's business or non-profit closed or ceased operations pursuant to Gubernatorial

Proclamations 20-07, 20-13, 20-14, 20-24, 20-25, 20-25.1, 20-25.2, 20-25.3, 20-25.4, 20-25.5, 20-25.6, or any subsequent extensions.

Section 3. For the purposes of this ordinance, “small business” means any business entity, including a corporation, partnership, or other legal entity, that (1) is owned and operated independently from all other businesses (a franchisee with five or fewer franchise units shall be considered owned and operated independently from its franchisor); (2) has fifty or fewer employees per establishment or premises; (3) is neither: a general sales and service business with ten or more establishments in operation located anywhere in the world; nor an entertainment use business with five or more establishments in operation located anywhere in the world.

Section 4. For purposes of this ordinance, a “nonprofit” means an entity that: (1) is a “not for profit corporation” or “nonprofit corporation” under RCW 24.03.005(16) or is designated a “public benefit not for profit corporation” or “public benefit nonprofit corporation” under RCW 24.03.490; and (2) holds tax-exempt status under 26 U.S.C. § 501(c)(3).

Section 5. Based on the findings of fact set forth in Section 1 of this ordinance, the Council finds and declares that this ordinance is a public emergency ordinance, which shall take effect immediately and is necessary for the immediate preservation of the public peace, health and safety.

Section 6. By reason of the findings set out in Section 1, and the emergency that is hereby declared to exist, this ordinance shall become effective immediately upon its passage by a 3/4 vote of the Council and its approval by the Mayor, as provided by Article 4, subsection 1.I of the Charter of the City.

Passed by a 3/4 vote of all the members of the City Council the _____ day of _____, 2020, and signed by me in open session in authentication of its passage this _____ day of _____, 2020.

President _____ of the City Council

Approved by me this _____ day of _____, 2020.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2020.

Monica Martinez Simmons, City Clerk

(Seal)