# Summary and Fiscal Note

## 1. Legislation Summary

**Department:** Office of Economic Development

**Title:** An ordinance relating to commercial tenancies; establishing lessor requirements to provide transparency regarding access to the lease agreement, previous certificate of occupancy for the space, the existing conditions of the space, and triple net expenses; and amending Sections 6.104.020, 6.104.030, 6.104.060, 6.104.070, and 6.104.080 of the Seattle Municipal Code.

**Background:** The Office of Economic Development (OED) has identified recurring issues between commercial tenants and landlords over the course of supporting hundreds of small businesses in lease negotiations and disputes and navigating permit processes. This legislation amends SMC 6.104, Commercial Lease and Rental Agreements, to establish new requirements to address these issues as follows:

- New definitions of “disclosure form”, “existing conditions”, and “triple net expenses” are added to SMC 6.104.020.
- SMC 6.104.030 is amended to establish new regulations for commercial lease agreements executed after July 1, 2027:
    - The lessor must provide a copy of the lease to the tenant at the time of the execution of a lease;
    - The lessor must provide an additional copy of the lease to the tenant at least once during the term of the lease;

- The lessor must provide a copy of the most recently issued certificate of occupancy, if available, for a new lease. Clarifies that:
  - Copies of the certificate of occupancy are kept by the Seattle Department of Construction and Inspections (SDCI),
  - Lessors shall not be held liable for failure to produce the certificate of occupancy if the certificate isn't reasonably available on a publicly accessible City database or provided in a timely manner,
  - Lessors may rely on SDCI determination of whether a certificate of occupancy applies to a leased space,
  - Lessors are not required to independently verify the accuracy of the certificate of occupancy furnished by SDCI, and
  - This requirement does not apply for leases for tenants already occupying the space;
- For leases that charge tenants triple net expenses, the lessor must provide annual access to the invoices or other materials documenting the actual building operating expenses incurred to the lessor that are charged to the tenant as triple net expenses;
- The lease must include an existing conditions disclosure form, attached to the lease and signed by the tenant and lessor. Clarifies that:
  - OED shall develop a model existing conditions disclosure form in English, Spanish, and other languages by March 31, 2027,
  - Lessors must attach the model form or an equivalent form,

        - The disclosures shall be based on the lessor's actual knowledge of the space at that time,
        - The information is for disclosure purposes only and is not a warranty,
        - Does not supersede provisions in a lease that a tenant accepts the conditions of the premises, and
        - This requirement does not apply for leases for tenants already occupying the space;
    - For leases that charge tenants triple net expenses, the lease must include a statement that the lessor has provided and the tenant has received documentation of the triple net expenses for the space from the previous year, if available, and an estimate of triple net expenses for the first year of the lease, signed by both the lessor and tenant.
- SMC 6.104.060 is amended to:
    - Adjust the authority of the Director of Finance and Administrative Services to adopt, promulgate, revise, or rescind rules and conduct enforcement activities for the personal guarantee and security deposit limits established in subsections SMC 6.104.070.A and 6.104.070.B, rather than Chapter 6.104 broadly; and
    - Direct the Office of Economic Development to adopt rules to implement the general provisions and violations that would be established by this ordinance.

- SMC 6.104.070 is amended to establish a lessor as being in violation of this Chapter 6.104 as follows:
    - Does not include signed acknowledgment from the tenant of receiving a copy of the lease at the time of its execution,
    - Fails to provide an additional copy of the lease within 30 days of the tenant's first request during the term of the lease,
    - Fails to include as an attachment to the lease the most recently issued certificate of occupancy, if available,
    - For leases that charge tenants triple net expenses, fails to provide to the tenant documentation of the triple net expenses incurred for the leased within 30 days of the tenant's request each year of the commercial lease agreement. Lessors are allowed an additional 90 days if the tenant's request occurs within 120 days of the lessors fiscal year to allow the lessor to provide final annual statement, rather than the information available at the time of the tenant's request,
    - Fails to include a complete existing conditions disclosure form signed by both the lessor and tenant, except the lessor shall not be held liable for a tenant's failure to sign the form if the tenant is provided a copy and refuses or fails to sign it,

  - For leases that charge tenants triple net expenses, fails to include a statement signed by the lessor and tenant that the lessor has provided and the tenant has received documentation of the triple net expenses for the leased space from the previous year, if available, and an estimate of triple net expenses for the first year of the commercial lease agreement, except the lessor shall not be held liable for a tenant's failure to sign the form if the tenant is provided a copy and refuses or fails to sign it.

- SMC 6.104.080 is amended as follows:
  - Authorizes the Director to issue a citation and assess penalties for violations of subsections SMC 6.104.070.A and 6.104.070.B, rather than Chapter 6.104.
  - Each day a person violates subsections SMC 6.104.070.A and 6.104.070.B, rather than Chapter 6.104, is considered a separate violation for which a civil citation may be issued.

**Summary Attachments:**

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## 2. Capital Improvement Program (CIP)

**Does this legislation create, fund, or amend a CIP Project?**

☐ Yes

☒ No

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## 3. Summary of Financial Implications

**Does this legislation have financial impacts to the City?**

☐ Yes

☒ No

This legislation adds new general provisions and violations within SMC 6.104, but exempts these provisions from enforcement and citation activities administered by the Department of Finance and Administrative Services (FAS), relying on private right of action per SMC 6.104.090, which does not incur financial impacts to the City.

To implement this legislation, the Office of Economic Development (OED) will develop guidance, model forms, and education materials, consulting with other departments and stakeholders as needed. OED will also educate tenants and landlords about these new regulations through existing connections and program work. These efforts can be accomplished within existing staff capacity.

## 3d. Other Financial Impacts

**a. Does this legislation create any other financial impacts for The City of Seattle, such as direct or indirect costs, one-time or ongoing, that aren't mentioned above? If yes, please explain these impacts.**

OED will coordinate with FAS and SDCI to develop the relevant guidance, education, and outreach materials. These efforts will primarily be one-time and can be absorbed within existing staff capacity.

**b. If the legislation has costs that can be covered within the current budget, explain how. Does the department have extra resources in its budget to handle these costs? Or does the department need to shift resources away from other work to handle these costs?**

OED will integrate implementation efforts into its Commercial Consulting program and other relevant staff and programs using existing staff capacity without shifting resources from other programs.

**c. What financial costs or other impacts might happen if this legislation is not implemented?**

The transparency and disclosure requirements this legislation establishes will help address the underlying causes that sometimes result in extensive renovations, lengthy permit processes, or the failure of a business to launch. Failure to pass this

legislation could therefore result in foregone business and occupation tax revenue and opportunity costs related to vacant commercial spaces.

**d. How might this legislation affect other City departments besides the one that proposed it?**

OED will be the primary administrator of this ordinance, see analysis above for an estimate of fiscal impact. Although the documents are publicly available online, SDCI may face additional requests for support to find certificates of occupancy. SDCI expects to absorb this impact within existing staff capacity. FAS may receive complaints regarding the provisions administered by OED and will connect clients to OED as appropriate.

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## 4. Other Impacts

**a. Does this legislation require a public hearing?**

☐ Yes

☒ No

**b. Does this legislation require a notice to be published in The Daily Journal of Commerce and/or The Seattle Times?**

☐ Yes

☒ No

**c. Does this legislation affect a piece of property?**

No.

d. Race and Social Justice Initiative impacts:

**1. How does this legislation affect vulnerable or historically disadvantaged communities? How did you come to this conclusion? Please consider both impacts within City government (like employees and internal programs) and in the broader community.**

This legislation will help ensure best practices are in place for all commercial leases in the city. Office of Economic Development staff have identified that immigrant-, women-, and minority-owned businesses are disproportionately impacted by these transparency issues. Therefore, OED expects this legislation will disproportionately benefit vulnerable and historically disadvantaged communities.

**2. Please attach any Racial Equity Toolkits or other racial equity analyses used to develop or assess this legislation.**

Not applicable.

**3. What is the Language Access Plan for communicating with the public about this legislation?**

OED will work in partnership with FAS and SDCI to develop education and outreach materials that are provided in multiple languages, as consistent with each department's language access plans.

e. Climate change impacts:

**1. Emissions: Will this legislation significantly increase or decrease carbon emissions? Attach any studies or materials that inform your answer.**

Not applicable.

**2. Resiliency: Will this legislation make Seattle more or less able to adapt to climate change? If it reduces resiliency, explain what can be done to lessen the impact.**

Not applicable.

**f. If this legislation creates a new program or expands an existing one, what are the long-term, measurable goals? How will this legislation help achieve those goals? What methods will be used to track progress?**

This legislation's long-term goals are to reduce commercial space vacancies, costly and expensive renovations and permitted processes, and landlord-tenant disputes through increased transparency. The requirements imposed by this legislation will help ensure both parties understand whether the space is viable for the tenant's business, the necessary permits and improvements needed to open the business, and ongoing costs.

OED will collect feedback from businesses, property owners, and property managers regarding the new requirements and trends in commercial vacancies to understand the impact of the legislation.

**g. Does this legislation create a non-utility CIP that involves shared funding with a non-City partner or organization?**

No.