

April 3, 2020

## MEMORANDUM

**To:** Seattle City Council  
**From:** Lish Whitson, Analyst  
**Subject:** CB 119766 Emergency Commercial and Nonprofit Rent Control and Deferred Payment plans

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On Monday, April 13, 2020, the City Council (Council) will consider and may vote on Council Bill (CB) [119766](#), which would (1) place a moratorium on rent increases for some small business and nonprofit tenants as described in the Moratorium on Rent Increases section, and (2) require lessors to negotiate payment plans for overdue rent for small business and nonprofit tenants. The bill responds to the immediate threat to the City's economy from effects of COVID-19 and the harm that may occur if Seattle's small businesses are not able to reopen after the end of the emergency. This memorandum describes the bill and its effects.

### Background

In response to the spread, transmission, and contraction of COVID-19 in Washington State and the Seattle region, Mayor Durkan proclaimed a [civil emergency](#) on March 3, 2020, which was modified by the Council through Resolution 31397. Governor Inslee issued a series of emergency proclamations intended to slow COVID-19, including: (1) a statewide shutdown of restaurants, bars, and entertainment and recreational facilities on March 16, 2020; and (2) a "[Stay Home – Stay Healthy](#)" order on March 23, which prohibited "all people in Washington State from leaving their homes or participating in social, spiritual and recreational gatherings of any kind regardless of the number of participants, and all non-essential businesses in Washington State from conducting business, within the limitations provided herein."

These restrictions, among others, reduce work and cause loss of income for businesses in multiple industries, including the service and entertainment industries, and are causing widespread economic impacts. Decreases in businesses' income creates financial instability and uncertainty regarding overhead, rent and operating expenses. Recognizing these concerns, on March 17, Mayor Durkan passed a [moratorium](#) on small business and nonprofit evictions during the emergency.

Because the economic disruptions from COVID-19 increases the likelihood that small businesses and nonprofits will have difficulty paying rent. Continuing economic disruptions are unlikely to end with the end of the civil emergency and are likely to extend past the end of the Mayor's March 3 emergency declaration.

## **Moratorium on Rent Increases**

CB 119766 would place a moratorium on rent increases during the COVID-19 civil emergency. Specifically, the moratorium would prohibit increases in rents charged to small businesses and nonprofits that rent space under a month-to-month agreement or that are subject to an existing lease that is being renewed. It does not apply to rent increases that were previously agreed to under a lease. It also does not apply to any wholly new lease or rental agreement. The moratorium on rent increases would end when the civil emergency announced by Mayor Durkan on March 3, 2020 ends.

“Small businesses” are defined as having 50 or fewer employees on the premises or establishment, the same definition used in the Mayor’s [Moratorium on Small Business Evictions](#). According to data from the Washington State Employment Security Department, 95 percent of businesses in Seattle had 50 or fewer employees in 2017.

Nonprofits are defined as either “a corporation no part of the income of which is distributable to its members, directors or officers” or that complies with the provisions of the Washington Nonprofit Corporation Act ([RCW 24.03](#)) and that holds tax-exempt status under the Internal Revenue Code ([26 U.S.C. §501\(c\)\(3\)](#)).

## **Payment plans**

CB 119766 would also require lessors to accept payment plans for late rent. The bill applies to rent not paid during the COVID-19 civil emergency and during the six months after the end of the civil emergency. If a small business or nonprofit tenant does not pay its rent in full, it would have the option of paying past due rent in installments under an agreement with the lessor.

The repayment plans would need to meet the following conditions:

1. The repayment schedule could not require the small business or nonprofit to pay more than 1/3 of late rent within any month or period;
2. The repayment schedule must require that all late rent will be repaid within a year of the end of the civil emergency; and
3. No late fees, interest or other charges could be added to the late rent payments.

This provision is intended to provide an opportunity for small businesses and nonprofits to remain in business during a time of limited cash-flow as a result of the Covid-19 emergency. If a business or nonprofit is not able to pay its rent when due, it would have an opportunity to negotiate a payment plan with its lessor.

cc: Kirstan Arestad, Executive Director  
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