

## **CALIFORNIA BILL WOULD PLACE MORATORIUM ON COMMERCIAL EVICTIONS**

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A California bill that would enact a moratorium on commercial evictions – for small businesses and nonprofits – during the COVID-19 State of Emergency is moving through the legislative process. California SB 939 passed the Senate Judiciary Committee last week, and now heads to the Senate Appropriations Committee in June.

SB 939 would also allow tenants in the hospitality sector to renegotiate a commercial lease if they have lost over 40% of their revenue, or if they will operate at 25% reduced capacity due to COVID-19-related social distancing requirements.

“California faces the very real prospect of a mass extinction event for small businesses and nonprofits,” said Senator Wiener, who authored the bill with Senator Lena Gonzalez. “We can’t let this happen, and we must take steps to stabilize these businesses and nonprofits.

Particularly for restaurants, bars, and cafes, government mandates to open at significantly reduced capacity mean that current rents are no longer reality. They need to be renegotiated to align with the current emergency.”

SB 939's lease renegotiation provisions are not applicable for publicly-owned companies, or businesses owned by publicly-owned companies. It is also not applicable for large privately-owned companies, only small businesses. If the landlord and tenant cannot come to a new lease agreement, the tenant may end the lease with no penalty.

**Cox Castle & Nicholson's Jonathan Zweig** says, "Proposed Section 1951.9(h) is a disproportionately overbroad and sweeping attempt to mitigate the economic hardships experienced by commercial tenants that will result in a harsh imbalance and restructuring of the respective obligations of landlords and tenants."

Zweig adds, "The lopsided impact of this overbroad rent deferral right is amplified by the fact that, as currently drafted, the end of the rent deferral period is tied to the end of the State of Emergency, which has no firm end date."

The bill is sponsored by the Bay Area Hospitality Coalition. Assemblymembers Rob Bonta, David Chiu, Ash Kalra and Phil Ting are co-authoring the bill.

Wiener notes, "many landlords are working with their tenants and doing the right thing by renegotiating rents, others are demanding full rent – and even increasing rent – which will lead to closures and bankruptcies. The state must step in to stabilize our small businesses and nonprofits. That's what SB 939 is about."