

7 October 2020



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All Provincial Premiers

**Re: Commercial Rent Relief is desperately needed**

Dear Ministers and Premiers

I am writing to follow up on some recent conversations with your staff and officials about expanding and extending commercial rent assistance to small businesses to avoid a massive number of bankruptcies amongst bricks and mortar businesses across Canada.

Over the past few days, many franchised businesses have expressed their concern that if further commercial rent relief is not forthcoming in the next few days, they will not be able to continue once the provincial commercial eviction bans end.

Since the flawed CECRA program is being wrapped up, we are concerned that without a new commercial rent program, many businesses will fail. If those businesses do fail, then all of the supports that have been provided through CEWS, CEBA, BCAP, tax deferrals, etc. will have been wasted.

According to the Fiscal Snapshot that was delivered in July the federal government has booked a \$13.750 billion expense to cover the cost of the 25% of the loan which is forgivable. If these businesses go bankrupt because they are locked out by their landlords due to their inability to cover the rent, then that expense will grow significantly.

Provincial governments need to use their powers and resources

While the federal government has taken the lead on the funding portion of the CECRA program it is very important to note that every provincial government also has a role to play. We need provincial governments across Canada to step up and increase the level of funding to help small businesses across Canada pay their commercial rent. We also need provincial governments to extend moratorium on commercial rent default evictions for a six-month period.

Many landlords are planning for their tenant's bankruptcy and are looking to seize their tenant's assets for non-payment of rent. If the provincial government put forward a six-month moratorium on

commercial evictions and the seizure of goods and chattels in all cases where the tenant has not filed for bankruptcy, it would protect active businesses who are trying to get back on their feet, while also allowing a landlord to move forward if the business failed. This moratorium will help create more of an incentive for those landlords to participate in the program and negotiate a mutually agreeable commercial rent agreement with their tenant.

It is important to remember that the eviction process for commercial properties is very different from the process for residential properties. In Ontario for example, a landlord may change the locks of the unit and evict on the 16th day after the day rent was due. The landlord is not obligated to notify the tenant that the locks will be changed. This is currently on hold as a result of the passage of Bill 204, Helping Tenants and Small Businesses Act, 2020, which places commercial eviction on hold until October 30, 2020. Thus, it will happen in November unless the moratorium is extended.

#### Extend the commercial rent program into the second quarter of 2021

The current month by month extension is only creating further anxiety for tenants and landlords. When the CECRA program was first introduced, no one expected the closures to last as long as they did, nor the economic fallout to be as challenging as it has become. Many government programs, like CEBA, were designed for a three to four-month economic impact. Today, we are eight months in with no end in sight.

As such, we believe that the revised commercial rent assistance program must continue until the beginning of the second quarter of 2021. This will give landlords and tenants greater certainty and the ability to refocus on transforming and rebuilding their businesses as they adapt to the new reality.

#### The new program must have a lower threshold than CECRA

The CECRA threshold was simply too high for anyone who remained open during the pandemic to qualify for it. Businesses that have remained open have experienced a significant drop in revenue, however, they will remain ineligible for funding as it does not meet the initial threshold of a 70% decrease.

We believe that the threshold for qualifying for the CECRA should be set at the same level as the Canada Emergency Wage Subsidy, which qualifies business that are down 30% or more. That threshold ensures that businesses get support when they need it.

#### Inclusion of "Dark Sites" in the program

Many businesses leased a space and were in the process of renovating with plans to open in the Spring. Unfortunately, due to COVID-19, these businesses were unable to open and are not currently eligible for any of the support programs, as they have not begun operating and receiving revenue. We strongly believe that the CECRA program should be amended to include businesses that have leased a site and taken possession of the premises before March 15, 2020.

#### Tenants must have support without having to work through their landlord

One of the major flaws of CECRA was the requirement for tenants to work through their landlords to gain access to funding. Yet, many landlords had no interest in applying for the program. Instead, they were planning for the failure of their tenant. In the case of many restaurants, the landlords plan for the

failure of one tenant, seize the goods and chattels for non-payment of rent, and then release it to a new tenant.

Simply put, tenants must have direct access to the new commercial rent program.

#### Expanding CEBA – in addition to a new commercial rent program

The CEBA loans need to be expanded in addition to a new commercial rent program.

Businesses cannot simply deficit finance themselves back to stability. While we appreciate the loan programs that have been provided, many businesses cannot sustain the level of debt needed which will result in their bankruptcy.

Many franchisees own multiple locations under a single corporate entity. Unfortunately, under the current program criteria, they are limited to one CEBA loan per corporate entity. For instance, some franchisees have locations in one province or in different cities across Canada. These separate locations are owned and operated under a single corporation which means they are only eligible for a single CEBA loan.

We believe that loans should be allowed for multiple locations based on business licenses, HST/GST accounts, WSIB accounts, etc. instead of single corporate entities using the CRA account. If this change is not made, then many businesses will be forced to close the lower performing stores and layoff employees to ensure their business survives.

The amount available under CEBA must also be expanded. As previously mentioned, the original program was designed to help for three months—not eight. Many CFA members have already spent their CEBA loans and are nowhere close to returning to normal as many provinces experience a second wave of infections.

#### Provinces must institute a temporary moratorium on commercial rent default evictions for a six-month period

Many landlords are planning for their tenant's bankruptcy and are looking to seize their tenant's assets for non-payment of rent. If the provincial government put forward a six-month moratorium on commercial evictions and the seizure of goods and chattels in all cases where the tenant has not filed for bankruptcy, it would protect active businesses who are trying to get back on their feet, while also allowing a landlord to move forward if the business failed. This moratorium will help create more of an incentive for those landlords to participate in the program and negotiate a mutually agreeable commercial rent agreement with their tenant.

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#### Franchised business IS local business

There is a mistaken perception that franchised businesses are not local businesses. While many brands are recognized around the country and across the world, the local stores are owned by franchisees who live and work in their communities from coast to coast. Franchising is the most ubiquitous form of local business in Canada and –will be completely devastated without ongoing support.

The franchising sector is the 12th largest contributor to the Canadian economy. Franchising contributes over \$100 billion to Canada's GDP and employs 1.9 million Canadians in various sectors such as food services, retail, commercial and residential services, and accommodation services.

We appreciate the actions that governments across the country have taken thus far to support employers and employees during this unprecedented time. We look forward to working with you to create a more effective commercial rent program to help more businesses across Canada.

Sincerely,

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David M. Black  
Director of Government Relations and Public Policy