



NEW YORK STATE SENATOR

Brian Kavanagh

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[Brian Kavanagh](#)

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## **New York State and City Lawmakers Propose COVID-19 “Recovery Leases” for Small Businesses**

Senator Kavanagh, Assemblymember Niou, Councilmembers Lander and Powers propose property tax incentives to restructure leases for small businesses to address arrears and long-term affordability in order to recover from the COVID-19 crisis.

Kavanagh and Niou introduce state legislation to authorize the program. Lander and Powers will introduce local law to implement it.

ALBANY, NY – Four New York lawmakers are proposing a new program to entice commercial landlords to renegotiate leases and offer long-term, affordable rents to small business owners in an effort to revitalize the small business sector as it seeks to recover from the economic damage caused by COVID-19. Senator Brian Kavanagh, Assemblymember Yuh-Line Niou, and Councilmembers Brad Lander and Keith Powers are proposing a “recovery lease” program to incentivize near-term lease restructuring with a long-term property tax break for commercial landlords. Senator Kavanagh and Assemblymember Niou recently introduced state legislation, the “COVID-19 Small Business Recovery Lease Act” (S8904, available [here](#)) to authorize the program in New York City.

Rent is among the top issues for struggling small businesses after months of closures. The New York Hospitality Alliance found in a survey that [83% of](#)

[restaurants](#) were unable to pay full rent in July. The Brooklyn Chamber of Commerce reported that more than half of businesses [surveyed](#) are worried about staying open, and just 20% have been able to negotiate some form of rent relief with their landlord. Nearly one third are continuing to report missing rent payments due to the pandemic. According to a [report](#) by the Partnership for New York City, as many as 520,000 jobs have been lost from the small business sector. Black-owned businesses are particularly [hard hit](#). Even before this crisis, skyrocketing commercial rents were already straining small businesses, with many forced to close and commercial storefronts all over the city vacant due to unaffordable rents. Now, after months of closures and reduced revenues, mounting rent bills are one of the major hurdles to keeping small businesses afloat.

“Vacant storefronts and rising commercial rents are not a new phenomenon in New York, but the public health and economic crises have greatly exacerbated the hardships facing our small businesses,” said State Senator Brian Kavanagh. “When storefronts are vacated, that can have a ripple effect, with reduced foot traffic making it harder for other businesses to thrive, jeopardizing the whole neighborhood. At the same time, many property owners are having difficulty paying their property taxes and maintaining their buildings. We know that we will need multiple approaches to solve these interrelated crises, but we hope that recovery leases will provide our neighborhood businesses and property owners with one significant path to relief and offer them some much needed long-term security.”

“It is long overdue that we put into place relief measures to protect our small businesses that are at risk of closing or laying off employees,” said Assemblymember Niou. “We have already seen far too many of our local businesses closed and had too many of our community members laid off. In my district, we saw and felt the economic devastation due to the COVID-19 pandemic beginning in January. It is necessary that we ensure that our remaining small businesses and small business owners who have been financially impacted by the COVID-19 are able to continue to maintain their commercial space through negotiated leases and long term affordable rents. If we do not put this legislation in place more of our small businesses, which are mostly immigrant owned, run the risk of closing and leaving our neighborhoods without the resources and vibrancy we need. This legislation is an important first step in supporting our businesses before it is too late for any recovery.”

The bill would allow the city of New York to create a program to provide relief to both small business owners and building owners impacted by the COVID-19 pandemic. The program would grant property tax abatements to building owners who enter into recovery leases that last at least ten years and limit annual rent increases. Commercial tenants restructuring their current leases, or those entering into new leases for spaces left vacant for reasons other than eviction would be eligible to enter into a recovery lease.

The State bill authorizes the City to add additional incentives and restrictions to ensure the program is effective. Councilmember Lander has been working with the other legislators, economists, the Brooklyn Chamber of Commerce, and the New York Hospitality Alliance to design the specifics of the program.

“So many of our businesses were facing challenges of rent affordability before, now they’re facing giant arrears and overwhelming anxiety about their stability for the future,” said Councilmember Brad Lander, who represents Park Slope, Kensington and other Brooklyn neighborhoods. “With federal relief uncertain, we are proposing a new path for long term stability and affordability for small commercial tenants. By providing tax relief for commercial property owners, we can help small businesses lock in rents at stable, lower rates, a forward thinking tool that will be essential for the rebuilding and recovery yet to come.”

Council Member Powers has been a champion for small business recovery, and recently released a report encompassing action to take at the federal, state, and city levels to preserve these establishments.

“Over the past several months, I have focused on actionable solutions to save our small businesses. A central theme of my office’s recent report was addressing insurmountable rents these establishments face at a moment when their future is uncertain. With the crushing impact of COVID-19, we must act urgently to ensure their survival,” said Council Member Keith Powers, who represents the East Side of Manhattan. “Rather than waiting on the chance of Federal aid, we are taking action with legislation that provides a roadmap for rental assistance and true hope for small businesses – the heart of our city.”

“I believe this program will benefit many small businesses in the Chinatown community,” said Wellington Chen, Executive Director of the Chinatown Partnership. “I especially like that it helps both landlords and tenants. One of the lessons we have

learned from this crisis is that we must do as much as we can for as long as we can to keep small business owners from shutting their doors because once they vacate or leave, it is likely that it will take a long, long time before we can find another to take their place!"

"The Brooklyn Chamber of Commerce has spent countless hours over the last several months working with small businesses on the myriad of challenges they have faced during COVID and the economic shutdown. One consistent message has come through -- real rent relief is needed if we are going to save our small business ecosystem. Recovery leases represent a creative solution to address the issue, and we applaud Senator Kavanagh and Assemblymember Niou for helping to advance this idea at the State level," said Randy Peers, Executive Director of the Brooklyn Chamber of Commerce.

"The COVID-19 crisis has financially devastated local restaurants and bars, and there's no way these small business owners will be able to pay back multiple months of missed rent and start paying pre-pandemic rents any time soon. That's why we commend Senator Kavanagh, Assemblymember Niou, and Councilmembers Lander and Powers for this important legislation that incentivizes landlords to work with their small business tenants to forgive rent and restructure their leases so they can survive," said Andrew Rigie, Director of the NYC Hospitality Alliance.

"The possibility of negotiating a recovery lease with my landlord and affording him the benefit of real estate property tax relief is a win-win situation," said Amy Fonda Sara, owner of Zuzu's Petals, a flower shop on 5th Avenue in Brooklyn. "A ten year lease with a cap of 5% on the annual increase would afford a long-absent sense of security for many small brick-and-mortar independent business owners. After a 2004 fire took the storefront that we had occupied for over 33 years, we were able to relocate and rebuild with the generous support from our community and insurance money. Now, without help addressing our accumulating unpaid rent and ongoing expenses after months of being closed, I fear we won't be able to reopen and rebuild this time."

"The 'small business recovery lease' bill, if it had been enacted already, would have been precisely what I needed to avoid a calamitous end to the thriving presence of my business for these past 15 years. With just 14 months left on my lease and an entirely new economic landscape to operate my day spa in, I've been left to negotiate with a landlord who is unwilling to compromise. This bill would have

offered me the protection I deserved. It would have saved our state from losing the payroll taxes my business has provided for a decade and a half,” said Daniella Stromberg, founder and owner of d'mai Urban Spa.

“Our team has been very active over the last few months helping out commercial tenants and/or landlords renegotiate leases in efforts to keep the tenants’ businesses afloat,” said attorney Nolan Cheng, who represents small businesses in Chinatown. “We have been working on deferrals and modifications and, in some cases, outright waiver of rents. This is a tremendous need. An acute problem has been getting landlords to understand that, without concessions, their tenants could lose everything. Many landlords have said, ‘OK, we understand our tenants’ pain, but we are suffering also.’ If this new program can help out landlords by giving tax abatements or any other tax relief as enticement to renegotiate, that is an excellent idea.”