

THE CARES ACT: FINANCIAL ASSISTANCE HIGHLIGHTS FOR THE REAL ESTATE INDUSTRY

Hodgson Russ Real Estate Alert
March 31, 2020

On March 27, 2020, President Trump signed into law H.R. 748, titled the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), a \$2 trillion economic stimulus package that includes public health spending, immediate cash relief for individuals, and loans for businesses. Notably for the real estate industry, the CARES Act provides assistance to commercial property owners, residential homeowners, landlords and tenants impacted by the pandemic.

SBA Loan Guaranty Program

The “Paycheck Protection Program”, a \$349 billion boost to the Small Business Administration’s (SBA) loan guaranty program, allows eligible borrowers to use loan proceeds for, among other things, payments of interest on any mortgage obligations (but not prepayment or principal payments), rent payments and utilities. For information on the Paycheck Protection Program, please see our companion alert [here](#).

Residential Real Property

A residential borrower with a federally backed mortgage loan experiencing a financial hardship due to COVID-19 may request a forbearance of mortgage loan payments for 180 days (and up to 360 days), regardless of the delinquency status. The borrower must submit a request to the loan servicer and affirm that the borrower is experiencing a financial hardship due to COVID-19. A lender may not require any additional information from a borrower to grant the forbearance. Additionally, lenders or servicers of federally backed mortgage loans may not initiate a foreclosure process for a 60-day period beginning on March 18, 2020.

Multifamily Properties

Borrowers may also be entitled to relief for federally backed mortgage loans secured by residential property with 5 or more dwelling units. The borrower must be experiencing a financial hardship due to COVID-19 and must have been current on its payments as of February 1, 2020. The lender must provide a forbearance of up to 30 days, which can be extended for 2 additional 30-day periods, upon request. This forbearance doesn’t apply to temporary loans, such as construction loans.

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Tenant Protections

Tenants also get some protection under the CARES Act. A property owner who receives a CARES Act loan forbearance may not, for the duration of the forbearance, (i) evict or initiate the eviction of a tenant from a dwelling unit located on the property solely for the nonpayment of rent or other fees or charges, (ii) charge the tenant any late fees, penalties or other charges for the late payment of rent or (iii) require a tenant to vacate a unit before issuing a 30-day notice to the tenant to vacate, which notice may not be issued until after the expiration of the forbearance.

In addition to these specific CARES Act provisions, there are many state and local executive orders and other laws which provide relief to borrowers, property owners and tenants.

Hodgson Russ continues to monitor the impact of these laws and orders on the real estate industry. If you have any questions about how the CARES Act or other laws affect your real estate business, please contact Sujata Yalamanchili (716.848.1657), Terrence Gilbride (716.848.1236) or any member of our Real Estate Practice. Please check our Coronavirus Resource Center to view many other alerts our attorneys in various practice areas have published on topics related to the pandemic.