

ALERTS

Real Estate Client Alert Regarding The CARES Act

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The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law by President Trump on March 27, 2020, as a response to the COVID-19 pandemic. Several provisions of the CARES Act impact real estate owners. Below is a summary of the provisions of the CARES Act that are most likely to impact to owners of commercial real estate. Please refer to Moore & Van Allen's COVID-19 Resource Center for a more comprehensive analysis of the CARES Act.

Forbearance of Payments for Federally Backed Multifamily Mortgages. If a borrower under a federally backed multifamily mortgage loan (as described below) is experiencing financial hardship due to the COVID-19 emergency, then they may request a forbearance of payments due under the mortgage. So long as the borrower was current on its payments as of February 1, 2020, the servicer of the loan must, upon such request, (i) document the financial hardship, (ii) provide the forbearance for up to 30 days; and (iii) extend the forbearance for up to 2 additional 30 day periods upon the timely request of borrower. During a period of forbearance, a borrower cannot evict or initiate the eviction of any tenant located on the applicable property solely for non-payment of rent or charge any late fees or similar charges for late payment of rent. A "federally backed multifamily mortgage loan" is defined as any loan (other than temporary financing such as a construction loan) that: (i) is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property and (ii) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

The CARES Act also grants forbearance rights and protection against foreclosure to borrowers with a federally backed mortgage loan on property designed principally for the occupancy of from 1 to 4 families.

Temporary Moratorium on Eviction Filings on Federally Backed Multifamily Properties. During the 120-day period commencing on the date of the enactment of the CARES Act, lessors of dwellings located on a covered property (as described below) are prohibited from (a) initiating legal action to recover possession of a tenant's unit for the nonpayment of rent, (b) issuing a notice to vacate to a tenant, or (c) charging fees or penalties for nonpayment of rent. A "covered property" is any property that (i) secures a federally backed multifamily mortgage loan (as described in the section above), (ii) secures a federally backed mortgage loan (related to mortgages on property designed principally for the occupancy of from 1 to 4 families), (iii) participates in a covered housing program (as defined in Violence Against Women Act), or (iv) participates in the rural housing

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voucher program under Section 542 of the Housing Act of 1949.

Loan Programs. Small and medium sized tenants can also be expected to benefit from the creation of certain loan programs created by the CARES Act. The CARES Act creates certain loan programs to assist small and medium sized businesses in addressing cash-flow disruptions caused by COVID-19 pandemic. Small businesses (mainly businesses with less than 500 employees) may be eligible to receive forgivable Paycheck Protection Program loans. The CARES Act also tasks the Secretary of the Treasury with implementing a program to provide financing to medium sized businesses. Please refer to Moore & Van Allen's COVID-19 Resource Center for more information about the terms and eligibility requirements of these loans.

Tax Matters. Please refer to Moore & Van Allen's tax alert regarding COVID-19 for a discussion of certain tax provisions of the CARES Act that may impact real estate owners.

Should you have any questions regarding these developments, please do not hesitate to contact us.