

Coronavirus Aid, Relief, and Economic Security Act: Provisions for REALTORS® and Their Consumers

Congress passed a \$2 trillion COVID-19 economic relief package on March 27, 2020 with overwhelming bipartisan support.

As more guidance is released by the Administration on how these new programs will be implemented, updates will be provided.

Housing

PROVIDES FOR:

- Mortgage Forbearance - Borrowers of government-backed mortgages ((Fannie Mae, Freddie Mac, HUD, VA and USDA) can request up to 360-day payment forbearance without proof of hardship. No additional fees, interest, or penalties can be assessed for the forbearance. Except for abandoned or vacant property, there may be no foreclosure actions for 60 days from 3/18/2020.
- Owners of multifamily properties who were current on their mortgage payments as of February 1, 2020, and have federally insured, assisted, or supplemented loan (Fannie Mae, Freddie Mac, FHA or any loans backed or assisted by any branch of the federal government, including LIHTC) may request forbearance for 30 days due to financial hardship, with extensions of up to a total of 90 days. Borrowers receiving the forbearance may not evict or charge late fees to tenants for the duration of the forbearance period.
- Moratorium on eviction filings, or fees or penalties for tenants for nonpayment of rent for 120 days on properties insured, guaranteed, supplemented, protected, or assisted in any way by HUD, Fannie Mae, Freddie Mac, the rural housing voucher program, covered by the Violence Against Women Act of 1994.
- \$1.25b for Section 8 voucher rental assistance for seniors, the disabled, and low-income working families, who will experience loss of income from the coronavirus
- \$5b for CDBG to help communities and states address COVID-19
- \$1 billion for project-based rental assistance to make up for reduced tenant payments as a result of coronavirus
- \$50m for Section 202 Housing for the Elderly to maintain housing stability and services for low-income seniors
- \$15 million for Section 811 Housing for Persons with Disabilities to make up for reduced tenant payments as a result of coronavirus

Credit Reporting & Student Loans

CREDIT REPORTING

- If furnishers provide an accommodation and the customer makes their payment or if no payment is required, then the furnisher must report customer as current.
- If the customer was delinquent before the accommodation, but brings account current, then the furnisher must report customer as current.
- Furnishers may maintain status of written off accounts.

- These provisions apply from January 30, 2020 to 120 days after enactment of this bill or the end of the national emergency.

STUDENT LOANS

- Suspends all payment due on federal student loans for 6 months.
- Interest shall not accrue on these during this forbearance.
- For the purpose of loan forgiveness, loans will be deemed paid during the forbearance.
- Prohibits negative credit reporting or involuntary debt collection during forbearance period.

SBA Provisions: Economic Injury Disaster Loans (EIDL) and 7(a) Payroll Protection Plan

The CARES Act dramatically increased the role of the Small Business Administration (SBA) in efforts to assist U.S. businesses impacted by the COVID-19 crisis. The two main vehicles for these relief efforts are the SBA 7(b)(2) loans – Economic Injury Disaster Loans – and the SBA 7(a) loan program. Both loans are available to businesses with 500 or fewer employees that have been negatively impacted by the crisis.

EMERGENCY ECONOMIC INJURY DISASTER LOAN (EIDL) GRANTS (SECTION. 1110)

- Businesses with 500 employees or fewer, including sole proprietors, independent contractors, and cooperatives are eligible for Economic Injury Disaster Loans (EIDL) during the covered period of January 31st to December 31, 2020 in response to COVID-19.
- The business must show hardship due to the Coronavirus.
- The Economic Injury Disaster Loans are available for up to \$2 million dollars for businesses.
- During the covered period, SBA can determine loan eligibility based solely on the applicant's credit score or use of an alternative appropriate method for determining an applicant's ability to repay.
- The SBA must waive any personal guarantee on loan advances or loans under \$200,000.
- Legislation provides \$10 billion in funding to provide an emergency advance of up to \$10,000, which is forgivable debt, to small businesses within 3 days of the business applying for the Economic Injury Disaster Loan (EIDL).
- Economic Injury Disaster Loans may be used for the following:
 - Paid sick leave to employees impacted by COVID-19
 - Payroll
 - Rent/Mortgage Payments
 - Debt obligations due to loss revenues
 - Increased costs for due to chain supply disruptions and materials.

SBA 7(a) Payroll Protection Program (Section. 1102 & 1106)

- Businesses with 500 employees or fewer, including sole proprietors and independent contractors, are eligible for SBA 7(a) loans in response to COVID-19 covering expenses for the period of February 15, 2020 through June 30, 2020. The CARES Act appropriates \$349 billion to cover these loans.

- The loan amount will be 250% of the average salary expenditures/month for the year prior to the loan, up to \$10 million. For businesses not open yet in that period, the SBA will look at earlier receipts from 2020.
- 7(a) loans can be used for:
 - Payroll, including for independent contractors and employees who work on commission;
 - Rent/Mortgage interest;
 - Utilities.
- All or a portion of these loans will be forgivable for businesses that maintain at least 75% of the average payroll levels as in the previous year; forgivable amounts phase out as employers payroll levels drop below that.
- The bill also increases the SBA “Express Loan” limit from \$350 thousand to \$1 million.

Infrastructure

- Expands broadband by providing \$100 million for the reconnect pilot program, which provides grants, overseen by the Department of Agriculture, to fund construction and upgrade costs of broadband networks in rural areas. This will promote economic growth and increase opportunities for home sales. Studies have concluded that in communities where there is access to high speed internet, property values are 6 percent higher.
- Provides \$20,000,000,000 for “Transit Infrastructure Grants”. Of this, \$4,000,000,000 shall be available for formula grants for rural areas and \$16,000,000,000 shall be available for urbanized area formula grants.

Tax

Highlights - What the tax changes mean for REALTORS® and their clients and businesses:

- REALTORS® and their families and their clients, as well as most Americans, with incomes below the thresholds will receive cash payments from the federal government in the amount of \$1,200 per adult plus \$500 for each child under the age of 17. These payments should be sent out starting in April.
- REALTORS® with retirement accounts, including IRAs, can take early withdrawals of up to \$100,000 from those accounts without having to pay the 10% early-withdrawal penalty. Those who withdraw such funds can recontribute them to the plan over three years or can keep the money and pay the tax on the withdrawals over a three-year period.
- REALTORS® aged 70 1/2 or older do not have to worry about taking required minimum distributions from retirement plans in 2020, or to pay the taxes on those distributions.
- REALTORS® who make donations of up to \$300 in charitable contributions in 2020 can deduct them whether they itemize or not.
- If your business has 100 or fewer employees, you can claim a refundable employee retention tax credit against payroll taxes of up to \$5,000 per employee under certain circumstances. Larger employers also can claim the credit, but with more restrictions.
- Employers and self-employed individuals can delay the payment of the employer-portion of the FICA (Social Security) payroll taxes or one-half the SECA (self-employment taxes) until after 2020 – one half is due at the end of 2021 and the other half at the end of 2022.

- Businesses with losses can carry back net operating losses (NOLs) to prior taxable years and get refunds of earlier taxes paid.

DETAILS:

2020 Recovery rebates for individuals (section 2201):

- Tax credits are provided for individuals in the amount of \$1,200 for single returns and \$2,400 for joint returns
 - plus \$500 for each child (under age 17 and qualifying for the child credit);
- Credits are reduced by 5% of the excess of adjusted gross income (AGI) over these thresholds:
 - \$75,000 for a single return;
 - \$150,000 for a joint return; and
 - \$112,500 for a head of household return:
 - Thus, the credits would be fully phased out for income higher than the following amounts:
 - \$99,000 for a single person with no qualifying child;
 - \$198,000 for a couple filing a joint return with no qualifying children;
 - \$218,000 for a couple filing a joint return with two qualifying children;
 - \$146,500 for a single parent with one qualifying child:
 - (in all cases, the level of income before the phaseout is complete increases by \$10,000 per child).
 - For limitation purposes, AGI is based on the 2019 tax return, if filed. If not, then AGI on the 2018 return would be the limit.
- There is no income floor or phase-in – all whose income does not exceed the thresholds will receive the same amount. Non-tax filers generally need not file a tax return to claim a rebate.
- The credits are not available to anyone who can be claimed as a dependent on another's return.
- If a tax return has not yet been filed for 2019, the 2018 tax return will be the point of reference. If no tax return was filed for either year, rebates can still be sent based on information on Social Security benefit statements.
- The rebates are fully available to residents of U.S. Territories, including Puerto Rico.
- The IRS will send out the payments electronically if any tax refund was sent in such a manner for the 2018 or 2019 tax return – also there will be a notice by mail to the last known address that the payment has been made electronically. If not, a paper check will be sent.
- Also, the act calls for a public awareness campaign to inform people about the rebates.
- No credit allowed if correct ID numbers (Social Security numbers) were not on tax returns, except in cases of spouses of active military personnel.
- IRS and Social Security Administration are appropriated extra funds to carry out the rebates.

Special Rules for Withdrawals from Retirement Funds (section 2202):

- The 10% extra tax on early withdrawals from IRAs and qualified retirement plans shall not apply to distributions of up to \$100,000 related to coronavirus:
 - These are distributions made in 2020 to an individual diagnosed with COVID-19 or whose spouse or dependent is diagnosed with COVID-19 or for an individual who experiences adverse financial consequences as a result of being quarantined,

furloughed, or laid off due to such virus or is unable to work due to lack of child care or closing or reduced hours of his or her own business.

- Such amounts can be repaid to the retirement plan over a three-year period;
- If not repaid, the regular tax on the distribution can be paid over a three-year period;
- Certain coronavirus-related loans up to \$100,000 from defined contribution plans are not treated as distributions and the repayment of such loans is extended.

Temporary Waiver of Required Minimum Distribution Rules for Certain Retirement Plans and Accounts (section 2203):

- The required minimum distribution (which requires people who turned age 70 ½ in 2019 to include a portion of their IRA or other defined contribution retirement account in their income) is waived for 2020.

Allowance of Partial Deduction for Charitable Contributions (section 2204):

- For 2020, charitable contributions of up to \$300 are deductible for those who do not itemize deductions;
- Must be cash contributions to charities (but not to private foundations or donor advised funds).

Modification of Limitations on Charitable Contributions During 2020 (section 2205):

- The 60% of AGI limit for cash contributions is increased to 100% for charitable donations made in 2020. For corporations, the 10% of taxable income limitation is increased to 25%. For donations of food inventory, the limitation increases from 15% to 25%.

Tax Exclusion for Employer Payments of Student Loans (section 2206):

- Payments by employers on student loans of employees are not subject to tax in 2020, up to \$5,250 per employee. This cap also includes other educational assistance paid by the employer.

Employee Retention Credit for Employers Subject to Full or Partial Closure Due to COVID-19 (section 2301):

- Eligible employers (including certain tax-exempt organizations) can receive a refundable tax credit against payroll taxes for 50% of wages paid to certain employees during the COVID-19 crisis.
 - Wages subject to the credit for any employee cannot exceed \$10,000, including health benefits.
 - The credit cannot exceed the employer's amount of Social Security (OASDI) taxes paid by the employer, reduced by any credits allowed for paid sick leave and paid FMLA leave (enacted in earlier coronavirus legislation).
 - Eligible employers are those:
 - carrying on a trade or business and that suffer a full or partial suspension of operations due to orders from a government authority to limit commerce, travel, or group meetings due to COVID-19; **or** that suffer a decline in quarterly gross receipts of more than 50%, measured against the same period in the prior year.
 - For employers with 100 or fewer full-time employees, all employee wages are eligible for the credit, regardless of whether an employee is furloughed or has hours reduced.
 - For employers with more than 100 full-time employees, wages eligible for the credit are those paid to employees when they are not working due to COVID-19-related circumstances.

- The credit is not available to employers receiving Small Business Interruption Loans.
- The credit is provided for wages paid or incurred from March 13 through December 31, 2020.

Delay of Payment of Employer Payroll Taxes (section 2302):

- Employers and self-employed individuals are allowed to defer payment of the employer share of the Social Security taxes of employees (this is one-half of the self-employment taxes of a self-employed individual) that arise between the effective date of the act and the end of 2020. The deferred tax can be paid over the following two years, with half required to be paid by December 31, 2021, and the other half due by December 31, 2022.
 - Employers who take advantage of SBA 7(a) loans designated for payroll are not eligible.

Modifications for Net Operating Losses (section 2303):

- Allows businesses to carry back net operating losses from 2018, 2019 or 2020 against profitable years, up to five years, and get immediate refunds. The current taxable income limitation is also temporarily removed to allow an NOL to fully offset income.

Modification of Limitation on Losses for Taxpayers Other Than Corporations (section 2304):

- Retroactively modifies limitation on loss provision passed in TCJA for individuals and pass-through businesses so they can utilize excess business losses and access cash flow through net operating loss carrybacks.

Modification of Credit for Prior Year Minimum Tax Liability for Corporations (section 2305):

- The corporate alternative minimum tax (AMT) was repealed by the Tax Cuts and Jobs Act, but corporate AMT credits were made available as refundable credits over several years, ending in 2021. The provision accelerates the ability of companies to recover those AMT credits.

Modifications of Limitation on Business Interest (section 2306):

- Temporarily increases the amount of interest expense that businesses are allowed to deduct by increasing the 30% limitation to 50% of taxable income for 2019 and 2020. Special rules apply for partnerships. This will provide relief for larger businesses (including commercial real estate firms) with interest expense (firms with average annual gross receipts of \$25 million are generally exempt from the interest deduction limitation rules).

Technical Amendment Regarding Qualified Improvement Property (section 2307):

- Technical fix for Qualified Improvement Property – allows businesses to write off immediately the costs associated with improving internal improvements to certain real estate (including restaurants and retail stores), instead of having to depreciate them over the 39-year life of the building. This corrects an error in the Tax Cuts and Jobs Act and allows companies to file for refunds with an amended tax return for 2018 and access cash and also encourages them to continue to invest in internal improvements to buildings.

Unemployment Benefits for Self-Employed

- Self-employed individuals, independent contractors, and other individuals who are unable to work as a direct result of COVID-19 public health emergency, and would not qualify for

regular unemployment benefits under state law may be eligible to receive “Pandemic Unemployment Assistance.”

- This excludes individuals who have an ability to telework *with pay* or individuals who are receiving sick leave or other paid leave benefits.
- The unemployment assistance is available to individuals who are unemployed, partially unemployed, or unable to work for the weeks impacted as a result of COVID-19 between Jan. 27- December 31, 2020.
- These benefits will be administered by the states, in accordance with this new Federal law.
- There is a maximum of 39 weeks of assistance, where the amount is equal to what is authorized under the state unemployment compensation law, plus an additional \$600 per week for up to four months.

Families First Coronavirus Response Act (FFCRA) Amendments

Limitation on paid leave (section 3601):

- Amends the Family and Medical Leave Act (FMLA) expansion in the FFCRA to ensure that no employer is required to pay more than \$200 per day and \$10,000 in the aggregate for each employee.

Paid leave for rehired employees (section 3606):

- Expands the FMLA leave in FFCRA to include as eligible employees, those that were employed for 30 days but were laid off by that employer after March 1, 2020, had worked for the employer for not less than 30 of the last 60 calendar days, and was rehired by the employer.

Emergency Paid Sick Leave Act Limitation (section 3602)

- Amends the emergency paid sick leave provisions in the FFCRA to
 - ensure that no employer is required to pay more than either \$511/day and \$5,110 in the aggregate for direct COVID-19 impact or \$200/day and \$2,000 in the aggregate for care of others related COVID-19 impact.