



Novel Coronavirus (COVID-19)

Commercial Real Estate

May 2020

UPDATE: Prime Minister announces partnerships with provinces and territories to deliver the Canada Emergency Commercial Rent Assistance for small businesses

By Kenneth Beallor

Further to Prime Minister Trudeau's announcement on April 17, 2020, of a program for rent relief for small businesses in Canada, this morning additional details were released as to how the program will work and who will be entitled to the rent relief. While the information released provides some clarity as to who can benefit from this program there are still uncertainties and questions that will need clarification over the next few weeks. **Please note that this is not a mandatory program and landlords and tenants may choose not to take part in the program even if all the program requirements can be met.**

What is the Program:

The Canada Emergency Commercial Rent Assistance (CECRA) program is intended to provide rent relief for small businesses experiencing financial hardship due to COVID-19. In simple terms, the Federal and Provincial governments have agreed to fund 50% of monthly rent for qualifying small businesses for May, June and July. The government expects small business tenants to pay 25% of their monthly rent and the landlords to absorb 25% of the monthly rent. CMHC will administer the CECRA on behalf of the Federal Government and the Provinces and Territories.

CMHC will provide forgivable loans to eligible commercial property owners.

- The loans will cover 50% of the gross rent owed by impacted small business tenants during the 3-month period of April, May and June 2020.
- The property owner will be responsible for no less than half of the remaining 50% of the gross rent payments (paying no less than 25% of the total).

- The small business tenant will be responsible for no more than half of the remaining 50% of the gross rent payments (paying no more than 25% of the total).

CECRA for small businesses loans will be forgiven if the property owner complies with all applicable program terms and conditions including to not seek to recover rent abatement amounts after the program is over

Who Qualifies:

CERA will only apply in respect of tenants and subtenants who meet the criteria of an “eligible small business tenant or subtenant, including non-profit and charitable organizations.

To qualify as an eligible small business tenant or subtenant, the tenant must meet the following criteria:

- pay no more than \$50,000 in monthly gross rent per location (as defined by a valid and enforceable lease agreement);
- generate no more than \$20 million in gross annual revenues, calculated on a consolidated basis (at the ultimate parent level); and
- have temporarily ceased operations (i.e. generating no revenues), or has experienced at least a 70% decline in pre-COVID-19 revenues.**

[** To measure revenue loss, small businesses can compare revenues in April, May and June of 2020 to that of the same month of 2019. They can also use an average of their revenues earned in January and February of 2020.]

For a landlord to be able to make application under CECRA for a loan equal to 50% of a tenant’s gross rent, the landlord must meet the following criteria:

- The applicant must be the property owner of the commercial real property where the impacted small business tenants are located.
- **The landlord must have a mortgage loan secured by the commercial real property, occupied by one or more small business tenants.***
- The landlord must enter into a rent reduction agreement with the tenant for the period of April, May, and June 2020, that will reduce impacted small business tenant’s rent by at least 75%.
- The reduction agreement with impacted tenants must include a moratorium on eviction for the period of April, May and June 2020.
- The landlord must have declared rental income on your tax return (personal or corporate) for tax years 2018 and/or 2019.

*** For those property owners who do not have a mortgage, an alternative mechanism will be implemented. Further information will be outlined in the near future.**

While the intention of the program is to provide small businesses struggling through COVID-19 with rent relief, having the drop in gross revenue threshold set at a minimum of 70% is going to leave many struggling small businesses still in need of relief. A small business operating at 50% of its prior gross revenue with thin profit margins may be financially in no better financial position than a tenant with a 70% reduction in gross revenues but with higher profit margins. We will have to wait to see in terms of numbers how many small businesses will actually qualify for this program and how many are being left out.

What remains to be seen is whether all landlords will participate in the program and agree to write off 25% of all small business rents for May, June and July, especially where deferral agreements had already been reached. Further details as to how the program will be administered and how landlords can apply for the loans will follow and it should be in place by mid-May.

Read the full press release here.

If you have any questions about the Canada Emergency Commercial Rent Assistance we encourage you to contact Kenneth Beallor a senior partner in our Real Estate Group so that we can work with you to address your needs during this challenging time. For more information about dealing with COVID-19, please visit our COVID-19 Resource Center.

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