Insights

The CARES Act: Issues for Real Estate

March 26, 2020

The passing of the Coronavirus Aid, Relief, and Economic Security Act (the "Act") by the United States Senate and House of Representatives provides billions in aid to large and small businesses. The real estate sector will benefit from these to the extent eligible.

One of the aspects of the Act that impacts the real estate sector specifically places a temporary moratorium on residential eviction filings for tenants living in certain residences, including residences financed by federally backed mortgages, across the United States ("Temporary Eviction Moratorium"). The Act does not address eviction filings for commercial tenants.

Summary of the Temporary Eviction Moratorium

Beginning on the enactment date of the Act and continuing for a period of one hundred twenty (120) days ("Moratorium Period"), a landlord is prohibited from (i) filing for an eviction because a tenant has not paid rent or other fees or charges, or (ii) charging the tenant any fees or penalties because the tenant has not paid rent. Additionally, during the Moratorium Period, the landlord is prohibited from giving a tenant a notice to vacate. Under the Act, once the Moratorium Period has ended, the landlord must give the tenant thirty (30) days to vacate the rented premises and cannot require the tenant to vacate at an earlier time.

This Temporary Eviction Moratorium applies to residential tenants that live in a residence that participates in a covered housing program or a rural housing voucher program, and to residential tenants that live in a residence that is financed with a federally backed mortgage loan or federally backed multifamily mortgage loan.

Effect on Residential and Commercial Leases

The Temporary Eviction Moratorium only impacts eviction filings for certain residential tenants and does not address eviction filings for commercial tenants. Under the Act, commercial tenants who may not have been previously eligible to apply for financial assistance through the U.S. Small Business Administration, may be now be eligible. The Act allows for such loans to be used for rent payments, utility payments, and interest on mortgage obligations or interest on any other debt obligations. Additionally, a commercial tenant who is eligible for such a loan under the Act may qualify to have a portion of that loan forgiven if it used to pay rent, utilities or interest on mortgage payments, and it meets the other terms and qualifications set out by the Act.

If you have any further questions, comments or concerns, please feel free to contact a member of our **Real Estate Team**.