



## **Commercial Leases**

### **Information for Tenants Concerning the Lease and COVID-19**

The COVID-19 pandemic is causing unprecedented impact and uncertainty for tenants and landlords. To address these uncertainties, Texas REALTORS® is providing answers to several frequently asked questions regarding your lease and the COVID-19 pandemic.

#### **Do I still need to pay rent during the COVID-19 pandemic?**

Yes. There have been no laws passed or decrees that freeze rental payments. Tenants are still contractually obligated to make rent payments according to the terms of their lease.

#### **If I am unable to pay rent during this time, what should I do?**

You should communicate with the landlord or property manager as soon as possible. Your landlord or property manager may be able to set up a payment plan, waiver, or a rental forbearance for tenants that are facing financial difficulties due to the COVID-19 pandemic. Note: The landlord or property manager is under no legal obligation to enter into a payment plan or other modification of the lease.

#### **Can I be locked out or evicted for failure to pay rent?**

Yes. The Texas Supreme Court's suspension of eviction proceedings through April 19 only applies to residential evictions. There have been no laws or decrees passed that restrict commercial lockouts or evictions.

#### **Can I terminate an executed commercial lease due to COVID-19?**

No. The Texas REALTORS® *Commercial Lease* (TXR-2101) does not provide for the early termination of the lease due to COVID-19 or any similar situation. No laws are currently in place that allow a tenant to terminate early due to COVID-19 related reasons. Tenants are encouraged to consult with an attorney if they want to proceed with terminating.

## **Economic Assistance for Small Businesses**

To help small businesses dealing with financial challenges during the COVID-19 pandemic, the federal government has taken emergency action through the CARES Act to provide economic aid to business owners. The act dramatically increased the role of the Small Business Administration (SBA) to help small businesses retain employees, meet payroll, and pay for business expenses like rent and utilities.

The two main vehicles for these relief efforts are available to businesses with 500 or fewer employees that have been negatively impacted by the crisis.

### **Emergency Economic Injury Disaster Loans (EIDL) Program**

- Businesses with 500 employees or fewer, including sole proprietors, independent contractors, and cooperatives are eligible for these loans during the covered period of January 31 to December 31, 2020.
- The business must show hardship due to the coronavirus.
- The loans are available for up to \$2 million dollars for each affected business.
- During the covered period, the 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.
- Businesses who have applied for a loan can request an emergency advance of up to \$10,000 on the loan, which is forgivable debt, which the SBA must pay within three days of the business applying for the loan.
- A business may use the loan for the following:
  - Paid sick leave to employees impacted by COVID-19
  - Payroll
  - Rent/mortgage payments
  - Debt obligations due to lost revenues
  - Increased costs due to supply chain disruptions and cost of materials.

### **SBA 7(a) Payroll Protection Program (PPP)**

- Businesses with 500 employees or fewer, including sole proprietors and independent contractors, are eligible for to apply for these loans for the period of February 15, 2020, through June 30, 2020.
- The loan amount will be 250% of the average salary expenditures per 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 receipts from earlier in 2020.
- These 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 from the previous year; forgivable amounts phase out as employers' payroll levels drop below that percentage.

For additional information, visit the SBA website at <https://covid19relief.sba.gov>.