

## Federal Government announces the Canada Emergency Commercial Rent Assistance program

*By Harrison Clark*

In response to the economic hardships faced by many small businesses as a result of the COVID-19 pandemic, the Government of Canada recently announced the Canada Emergency Commercial Rent Assistance (CECRA) program which is designed to facilitate rent reductions for eligible small business tenants under their commercial leases. CECRA is a program jointly developed and funded by the Government of Canada and the provincial governments, and will be administered by the Canada Mortgage and Housing Corporation (CMHC). It is important to note that CECRA is a voluntary program and otherwise qualifying commercial property owners may choose to not participate. While it is anticipated that CECRA will be operational by mid-May with applications due by August 31, 2020, full details have yet to be announced.

### How does CECRA work?

Under CECRA, qualifying commercial property owners may apply to CMHC for forgivable loans which will cover 50 percent of the monthly gross rent payable by eligible small business tenants for the months of April, May and June 2020 (the **Rent Reduction Period**). The loans, which are disbursed directly to the commercial property owner's mortgage lender, will be forgiven if the commercial property owner enters into a rent reduction agreement with the eligible small business tenant(s) agreeing to:

1. reduce the gross rent payable under the eligible small business tenant's lease by at least 75 percent during the Rent Reduction Period; and
2. not evict the eligible small business tenant while the agreement remains in place.

The eligible small business tenant would cover the remainder of gross rent payable over the Rent Reduction Period — up to 25 percent (depending on the terms of the rent reduction agreement entered into between the parties) — which, when coupled with CMHC's 50 percent contribution, leaves the commercial property owner covering at least 25 percent of the gross rent payable during the Rent Reduction Period.

As the program applies retroactively to April 1, 2020, should a participating commercial property owner have collected any gross rent during the Rent Reduction Period, it must refund such amounts to the eligible small business tenant or, if the commercial property owner and the eligible small business tenant agree, provide the eligible small business tenant with a credit towards future payments of gross rent due under its lease.

### Who will qualify?

#### *Commercial property owners*

In order to qualify for CECRA, a commercial property owner must:

1. own commercial property which:
  - a. is subject to a mortgage;
  - b. generates rental revenue;
  - c. is subject to leases with eligible small business tenants; and

2. have declared rental income from such commercial property on their tax return (personal or corporate) for tax years 2018 and/or 2019.

Commercial properties include those which have a residential component and multi-unit residential properties with commercial tenants (i.e., mixed use).

For owners of commercial property not subject to a mortgage, the Government of Canada has indicated that details of a modified procedure for non-mortgaged commercial properties are forthcoming.

#### *Small business tenants*

Eligible small business tenants or subtenants are businesses, non-profit or charitable organizations:

1. that are paying less than \$50,000 per month in gross rent — *based on monthly gross rent per location*;
2. that generate no more than \$20 million in gross annual revenues, calculated on a consolidated basis (at the ultimate parent level); and
3. who have temporarily ceased operations or have experienced at least a 70 percent drop from pre-COVID-19 revenues.

In determining revenue loss, small businesses can compare: (1) revenues from April, May and June of 2020 to revenues from April, May and June 2019; or (2) the average of its revenues earned in the months of January and February of 2020. A tenant's eligibility on the basis that it has "ceased operations" is satisfied if it is currently generating no revenue.

A separate program for larger commercial tenants (i.e., those tenants whose gross rent exceeds \$50,000 per month) is expected to be announced soon.

#### **Further details to follow**

Further details with respect to CECRA are expected to be released in the coming days. We will continue to update this bulletin as additional information becomes available.

*This bulletin is general information only, not legal advice. If you have any questions please contact any member of our [Commercial Real Estate Group](#).*