

Relief Avenues for Small and Medium-Sized Businesses in California During the COVID-19 Pandemic

March 25, 2020

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There is no doubt that markets are currently witnessing unprecedented disruption. Small and medium-sized businesses are more susceptible to long-lasting damage, particularly mass closures. However, business owners in California should be aware of options for potential relief.

1. Economic Injury Disaster Loans

To overcome the temporary loss of revenue small businesses are experiencing, the U.S. Small Business Administration is offering up to \$2 million in assistance in the form of Economic Injury Disaster Loans.

To qualify for the loan, a business must meet the size standards set by the North American Industry Classification System. The standards relate to either a set number of employees or annual receipts. For instance, a full-service restaurant qualifies as a small business if the restaurant and its affiliates generate at most \$8 million in annual receipts. Meanwhile, a “women's, children's, and infants' clothing and accessories merchant wholesaler” meets the small business standard if the wholesaler and its affiliates have 100 employees or less.

The purpose of the loans is to help business owners pay fixed debts, payroll, accounts payable, and other expenses that cannot be paid because of COVID-19's impact. While the loan terms are determined on a case-by-case basis based on each borrower's ability to repay, some of the potentially favorable terms include a 3.75% interest rate and a repayment period of up to 30 years.

Small businesses can apply for the loans and submit the necessary documentation [online](#) through the U.S. Small Business Administration website.

2. Moratorium on Commercial Evictions

With April 1 approaching, so are rent payments. In an executive order, Gov. Gavin Newsom gave California cities and counties the authority to impose their own eviction limitations. Accordingly, the mayors of Los Angeles and San Francisco, among others, issued a moratorium on commercial evictions.

In Los Angeles, Mayor Eric Garcetti's moratorium order applies to any business that can show its inability to pay rent due to circumstances related to the COVID-19 pandemic. The circumstances include (1) loss of business income due to a COVID-19-related workplace closure; (2) child care expenditures due to school closures; (3) health care expenses related to being ill with COVID-19; (4) caring for a member of the tenant's household who is ill with COVID-19; or (5) reasonable expenditures that stem from government-ordered emergency measures. The Los Angeles moratorium was initially in effect through March 31, 2020, but was recently extended to April 19, 2020. The Los Angeles moratorium gives tenants up to three months, following the expiration of the local emergency period, to repay any back-due rent.

Meanwhile, in San Francisco, the moratorium applies to businesses that (1) have a license to operate in the city; and (2) generate \$25 million or less in annual gross receipts. The moratorium announced on March 17, 2020, will be in effect for 30 days and can be extended by the mayor for another 30 days.

Neither moratorium absolves tenants from their obligations to pay rent. Indeed, under the San Francisco moratorium, landlords are required to give tenants a written notice and a cure period to pay the missed payment.

The onus then shifts to the tenant to either (1) pay the missed payment; or (2) provide documentation showing that the inability to pay is caused by the financial impact of COVID-19. If the tenant opts for the latter, the landlord and the tenant can agree on a payment plan. However, if the parties cannot agree on a payment plan, the cure period is extended for another month. The cure period can be extended for a maximum of six months subject to the tenant providing updated

financial documentation. A commercial landlord in San Francisco will have the right to evict the tenant for nonpayment, if payment is not made for more than six months from when the rent was originally due.

In addition to the aforementioned avenues, businesses will have other potential relief options under the \$2 trillion stimulus bill, the details of which will be disclosed this week.

Currently, commercial tenants and landlords are weathering this storm together. The business and real estate attorneys at Carlton Fields are ready and available to advise businesses on navigating these uncharted waters.

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