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MEMO

To: All Clients
Subject: Coronavirus Aid, Relief and Economic Security (CARES) Act
Date: April 1, 2020

On March 27, 2020, the Coronavirus Aid, Relief and Economic Security (CARES) Act was signed into law. Following is a summary of how the CARES Act applies to our clients in Maryland, Virginia and the District of Columbia.

Under the CARES Act, there is a 120-day moratorium on filing non-payment of rent cases and charging fees, penalties or charges related to such nonpayment of rent, for *covered properties* starting March 27, 2020. The CARES Act does not apply to cases filed before the moratorium took effect or in cases where the eviction is based on other reasons besides nonpayment of rent or other charges.

COVERED PROPERTIES

For purposes of the eviction protections, *covered properties* are defined to include most federally assisted rental housing programs, including the following programs:

HUD programs

- Public housing (42 U.S.C. § 1437d)
- Section 8 Housing Choice Voucher program (42 U.S.C. § 1437f)
- Section 8 project-based housing (42 U.S.C. § 1437f)
- Section 202 housing for the elderly (12 U.S.C. § 1701q)
- Section 811 housing for people with disabilities (42 U.S.C. § 8013)
- Section 236 multifamily rental housing (12 U.S.C. § 1715z-1)
- Section 221(d)(3) Below Market Interest Rate (BMIR) housing (12 U.S.C. § 17151(d))
- HOME (42 U.S.C. § 12741 et seq.)
- Housing Opportunities for Persons with AIDS (HOPWA) (42 U.S.C. § 12901, et seq.)
- McKinney-Vento Act homelessness programs (42 U.S.C. § 11360, et seq.)

Department of Treasury program

- Low-Income Housing Tax credit (LIHTC) (26 U.S.C. § 42).

Department of Agriculture programs

- Section 515 Rural Rental Housing (42 U.S.C. § 1485)
- Sections 514 and 516 Farm Labor Housing (42 U.S.C. §§ 1484, 1486)
- Section 533 Housing Preservation Grants (42 U.S.C. § 1490m)
- Section 538 multifamily rental housing (42 U.S.C. § 1490p-2)

The moratorium also extends to any property with a “federally-backed mortgage loan. Federally backed mortgage loans that are “made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by [HUD] or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage

Corporation or the Federal National Mortgage Association.” There is a differently worded definition of the term "federally backed mortgage loan" in another section of Act where the term is defined in terms of a finite list of federal agencies and loan programs:

- insured by the Federal Housing Administration under title II of the National Housing Act (12 U.S.C. 1707 et seq.)
- insured under section 255 of the National Housing Act (12 U.S.C. 1715z–20)
- guaranteed under section 184 or 184A of the Housing and Community Development 3 Act of 1992 (12 U.S.C. 1715z–13a, 1715z– 4 13b)
- guaranteed or insured by the Department of Veterans Affairs
- guaranteed or insured by the Department of Agriculture
- made by the Department of Agriculture
- purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

It is not entirely clear if these two definitions of the same term are intended to cover the same set of loans, but the definition of "federally backed mortgage loan" in the eviction moratorium provisions is arguably much broader.

MARYLAND

The Real Property Code is suspended as follows until the state of emergency is rescinded:

- A. 8-401 (Failure to Pay Rent) – No court shall give any judgment for possession or WRIT if the tenant can demonstrate to the court, through documentation or other objectively verifiable means, that the tenant suffered a substantial loss of income resulting from COVID-19 or the related proclamation of the state emergency order, including without limitation, due to job loss, reduction in compensated hours or work, closure of place of employment, or the need to miss work to care for a home-bound school-aged child.
- B. 8-402.1 (Breach of Lease) – same as 8-401, in addition:
 - a. If the tenant, or any authorized occupant pursuant to the lease, has a confirmed diagnosis it shall not constitute a “clear and imminent danger” for purposes of issuing a notice to vacate.
- C. Except for those provisions, all other provisions remain the same.

While Maryland courts remain closed through May 1, 2020 for Landlord/Tenant matters, if you are not a covered property, you may continue to submit your filings to our office.

VIRGINIA

On March 27, 2020, the Supreme Court of Virginia extended its original Order continuing all civil matters including Unlawful Detainers and the issuance of Writs of Eviction through April 26, 2020.

DISTRICT OF COLUMBIA

On March 18, 2020, the Superior Court of the District of Columbia issued an Order indicating all nonpriority matters scheduled before May 15, 2020 will be rescheduled and new dates set; and all evictions scheduled on or before May 15, 2020 are stayed.

On March 19, 2020, the Superior Court ordered that all deadlines and time limits in statutes, court rules, and standing and other orders issued by the court that would otherwise expire before May 15th including statute of limitations, are suspended, tolled, and extended during the periods of the current emergency.

On March 23, 2020, the Court of Appeals promulgated an order indicating the Court is closed through May 31, 2020.

As always, we are attempting to provide you with the most up to date information on the Coronavirus and its impact on the Courts. We remain available to respond to all of your inquiries as well as to continue filing suits in accordance with the information in this Memo.

For market/conventional properties you may continue to file suits for failure to pay rent, except where the unit is governed by any of the above-defined programs, or where the resident is a Section 8 voucher holder.

If you have any questions, please feel free to contact us.