

**NAA Legislative and Regulatory Update Call
March 27, 2020**

Special COVID-19 Call

What follows is a short description of topics to be covered during the March 25th update call.

Introduction

Federal Update

Phase One - H.R. 6074, the Coronavirus Preparedness and Response Supplemental Appropriations Act

- Expansion of Small Business Administration disaster lending program.

Phase Two - H.R. 6201, the Families First Coronavirus Response Act

- Expanded emergency family medical and paid sick leave for employees.

Phase Three - S. 3548, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

Unemployment Insurance:

Pandemic Unemployment Assistance—Provides for a major expansion of unemployment benefits for those affected by COVID-19.

- Unemployed Americans are eligible for an extra \$600 per week benefit for up to four months, on top of state unemployment benefits to make up for 100 percent of lost wages.
- Provides funding to pay the cost of the first week of unemployment benefits through December 31, 2020 for states that choose to pay recipients as soon as they become unemployed instead of waiting one week before the individual is eligible to receive unemployment benefits as is the traditional handling of claims.
- Expansion also creates temporary financing of short-time compensation payments where employers reduce employee's hours instead of laying off workers and the employees with reduced hours receive a pro-rated unemployment benefit.
- The expansion extends eligibility for benefits to those not traditionally eligible for unemployment benefits (self-employed, independent contractors, those with limited work history, and others).
- Recipients must be directly impacted by COVID-19 (sick, caring for sick or caring for child who is unable to attend school).

Forbearance and Eviction Moratoriums

Forbearance of Residential Mortgage Loan Payments for Multifamily Properties with Federally Backed Loans.

- Provides up to 90 days of forbearance for multifamily borrowers with a federally backed multifamily mortgage loan who have experienced a financial hardship.
- Borrowers receiving forbearance may not evict or charge late fees to tenants for the duration of the forbearance period.

- Applicable mortgages include loans to real property designed for 5 or more families that are purchased, insured, or assisted by Fannie Mae, Freddie Mac, or HUD.
- The authority provided under this section terminates on the earlier of the termination date of the national emergency concerning the coronavirus or December 31, 2020.

Temporary Moratorium on Eviction Filings.

- Adds a temporary eviction moratorium for 120 days, applicable to “covered properties.” The mandate prohibits issuing a notice to vacate, initiating an eviction filing, or assessing fees or penalties on residents for nonpayment of rent.
- The moratorium applies to: rental housing providers whose properties are insured, guaranteed, supplemented, protected, or assisted in any way by HUD, the Federal Housing Administration, Fannie Mae, or Freddie Mac; or ****participate in the Section 202 Supportive Housing for the Elderly Program; the Section 811 Housing for Persons with Disabilities Program; Housing Opportunities for Persons With AIDS (HOPWA) Program; McKinney-Vento Homelessness Assistance Programs; Section 236 properties; the Section 8 Housing Choice Voucher (HCV) Program; rural housing assistance programs; and Low Income Housing Tax Credit (LIHTC) properties (**references in the law to rental housing providers of covered properties who must comply with the requirements of the Violence Against Women Act of 1994).**
- NOTE: You should communicate to residents that for covered properties, the 120-day suspension of evictions in no way removes a resident’s responsibility to pay rent or comply with the terms of the lease agreement.

Tax Provisions:

Provisions for Businesses

- **Employee Retention Credit:** Establishes a refundable employee retention tax credit for employers subject to closure due to COVID-19.
- **Delay of Payment of Employer Payroll Taxes:** Enables employers and the self-employed to delay the payment of the employer side of Social Security payroll taxes.
- **Net Operating Loss Carryback:** Allows net operating losses (NOLs) generated in taxable years beginning in 2018, 2019, and 2020 to be carried back for five years, and eliminates the 80 percent taxable income limitation to allow an NOL to fully offset income.
- **Suspension of Limits on Excess Business Losses:** Suspends the limitation of excess business losses applicable to pass-through businesses and sole proprietors that would otherwise be applicable for 2018, 2019, and 2020.
- **Limitations on Business Interest:** Increases to 50 percent the 30 percent business interest limitation rule for taxable years beginning in 2019 and 2020.

Provisions for Individuals

- **Recovery Rebates to Individuals:** Provides checks of \$1,200 to qualifying individuals and \$2,400 to qualifying married taxpayers with an additional \$500 for each child under 17 years of age. The checks are fully available to individuals earning up to \$75,000 and married couples earning up to \$150,000 and begin to phase down once those thresholds are reached.
- **Use of Retirement Funds:** Waives the 10 percent early withdrawal penalty for withdrawals of up to \$100,000 from qualified retirement accounts for COVID-19 related purposes. Distributed

amounts could be recontributed to a qualified retirement account over within three years. Tax can also be spread out over three years on distributed payments.

- **Waiver of Required Minimum Distribution Rules:** The Act waives required minimum distribution rules from certain tax-favored retirement plans for 2020.
- **Deduction for Charitable Contributions:** The Act provides taxpayers who do not itemize deductions the ability to deduct up to \$300 in charitable contributions in 2020. It also waives certain limitations applicable to deductions claimed by individuals and corporations. For individuals, the 50 percent of adjusted gross income limitation is suspended for 2020. For corporations, the 10 percent limitation is increased to 25 percent of taxable income.
- **Exclusion of Certain Student Loan Payments:** The Act excludes up to \$5,250 from employee income for student loans repaid by an employer after the date of enactment and through 2020.

Increased HUD Program Funding:

Total of \$17.4 billion for the U.S. Department of Housing and Urban Develop (HUD)

- Of particular importance is language for Sec 8 funding, CDBG, TBRA, PBRA and the Public Housing Operating Fund, allowing the HUD Secretary broad waiver authority for any provision of any statute or regulation that the Secretary administers in connection with the use of amounts made available (except for requirements related to fair housing, non-discrimination, labor standards, and the environment), upon a finding that any such waivers or alternative requirements are necessary to expedite or facilitate the use of such amounts to prevent, prepare for, and respond to coronavirus.

Specific Program Increases included in the Phase 3 package:

- **Tenant-Based Rental Assistance** – \$1.25 billion. These funds will preserve Section 8 voucher rental assistance for seniors, the disabled, and low-income working families, who will experience loss of income from the coronavirus
- **Project-Based Rental Assistance** – \$1 billion. This additional funding will make up for reduced tenant payments as a result of coronavirus. Preserving this critical housing assistance will prevent low-income families and individuals from being at risk of homelessness.
- **Public Housing Operating Fund** – \$685 million. These funds will provide Public Housing Agencies with additional operating assistance to make up for reduced tenant rent payments, as well as to help contain the spread of coronavirus in public housing properties.
- **Community Development Block Grant (CDBG)** – \$5 billion. CDBG is a flexible program that provides communities and states with funding to provide a wide range of resources to address COVID-19, such as services for senior citizens, the homeless, and public health services. Funding will be distributed using formula.
- **Homeless Assistance Grants** – \$4 billion to enable state and local governments to address coronavirus among the homeless population.
- **Native American Programs** – \$300 million to prevent homelessness due to lost income from the coronavirus, as well as to contain the spread of coronavirus on tribal lands.
- **Housing Opportunities for Person with Aids (HOPWA)** – \$65 million for housing needs of people living with HIV/AIDS by giving grants to local communities, states, and nonprofit

organizations for projects that benefit low-income persons living with HIV/AIDS and their families.

- **Section 202 Housing for the Elderly** – \$50 million to help maintain housing stability and services for low-income seniors. Seniors are particularly at risk from the coronavirus.
- **Section 811 Housing for Persons with Disabilities** – \$15 million to make up for reduced tenant payments as a result of coronavirus.
- **Fair Housing** – \$2.5 million for additional fair housing enforcement.

Small Business Loans/Grants:

Paycheck Protection Program

- Provides \$349 billion for Small Business Interruption Loans for companies of not more than 500 employees. Allowable Uses—payroll costs; health care costs/premiums; salaries; **mortgage payments; rent; utilities; interest on other debt obligations.**
- Increases the maximum 7(a) loan amount to \$10 million through December 31, 2020 and provides a formula by which the loan amount is tied to payroll costs incurred by the business to determine the size of the loan, not to exceed \$10 million.
- Average total monthly payroll costs x 2.5= loan size; where payroll costs include salary, vacation, insurance, retirement, leave, and state\local payroll taxes

Although the uses are broader than just payroll, see above, there will likely be no excess funds once payroll costs have been paid to pay the other obligations such as mortgage or rent payments.

SBA Loan Forgiveness

- Establishes that the borrower shall be eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date of the loan on payroll costs, interest payment on any mortgage incurred prior to February 15, 2020, payment of rent on any lease in force prior to February 15, 2020, and payment on any utility for which service began before February 15, 2020.
- The amount forgiven will be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25 percent of their prior year compensation. Borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period.

Consumer Reporting:

Credit Protection During Covid-19:

- Furnishers to credit reporting agencies (like apartment firms, credit card companies, etc.) who agree to modified (rental) payments with respect to an obligation or account of a consumer that has been impacted by COVID-19, must report such obligation or account as “current” or as the status reported prior to the accommodation during the period of accommodation unless the consumer becomes current. Such credit protection ends at the later of 120 days after enactment of the legislation or 120 days after the date the national emergency declaration related to the coronavirus is terminated.

Federal Agency and Regulator Action related to Covid-19

HUD Housing Program Guidance

- COVID-19 FAQs for [the Public Housing, Housing Choice Voucher \(HCV\) \(including the Project-based Voucher Program \(PBV\)\) and Native American Programs](#) and [FHA Multifamily Housing Stakeholders](#).

Federal Housing Finance Agency – Mortgage forbearance for multifamily and eviction protection for renters.

- On Tuesday, the [FHFA](#) announced that multifamily properties backed by [Fannie Mae](#) and Freddie Mac mortgages would be granted mortgage forbearance relief.
- In exchange, housing providers must place a 90-day hold on evictions.

Federal Reserve: Unlimited asset purchases, including CMBS issued by GSEs

Essential and Critical Employee Designation

- CISA Essential Critical Infrastructure Workforce guidance: NMHC and NAA letter asking for clarification that residential property management staff and construction teams qualify under CISA Essential Critical Infrastructure Workforce guidance

State and Local Update

- NAA has prepared a state and local survey of COVID-19 responsibilities and benefits that can be found [here](#).
- Shelter in Place Orders
 - As of March 26th, at least 200 million people in 21 states, 47 counties and 14 cities are being urged to stay home.
 - To better serve our members, NAA has released [operational guidance](#) concerning shelter-in-place orders.
- Eviction Moratoriums
 - As of March 26th, 95 jurisdictions have implemented some form of eviction moratorium
 - 39 Court Issued Moratoriums or closures
 - 29 via Executive / Emergency Order
 - 12 via City Council action
 - 10 through Sheriff's Offices
- Renter Assistance Measures
 - 10 jurisdictions have created or already have rental assistance programs.
- Rental Housing Provider Relief
 - U.S. Small Business Administration Disaster Loans are now available in all 50 states and territories to qualifying businesses.
 - Apply [online](#) now.
 - Localities have begun to propose or establish business grant and loan programs for small and medium-sized businesses to meet routine financial obligations.