

MAY 22 UPDATE: RENT RELIEF ON ITS WAY FOR SMALL BUSINESSES AND COMMERCIAL LANDLORDS

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This is an update to the [April 30, 2020 bulletin](#).

Building upon the Federal Government's announcement that it was rolling out relief measures for small businesses and commercial property owners, the Canada Mortgage and Housing Corporation ("CMHC") released further updates to the Canada Emergency Commercial Rent Assistance ("CECRA") on both May 19 and May 20, 2020. A link to CMHC's information page can be found by clicking [here](#) and should be reviewed for detailed information on the CECRA.

The CECRA provides forgivable loans to commercial property owners to cover 50% of the gross rent payments of eligible small business tenants minus a pro rata portion of any insurance proceeds available to the property owner or any non-repayable proceeds received from any other government rent assistance programs (other than the CECRA) received by the property owner and/or the tenant during April, May and June 2020.

Properties with or without a mortgage are now eligible under CECRA for eligible small businesses. The property owner would be responsible for no less than half of the remaining 50% of the monthly gross rent payments (paying no less than 25% of the total) and the small business tenant would be responsible for paying no more than 25% of the total monthly gross rent payments. CMHC has engaged MCAP Mortgages and First Canadian Title to deliver the CECRA forgivable loans to the property owners' financial institutions. The loans will be forgiven if the property owner agrees to reduce small business tenants' rent by at least 75% under a rent forgiveness agreement, which must include: a moratorium on eviction; and a statement of contract rent and reduced rent. Attestations of both the property owner and the small business tenant are also required to be submitted with the application.

The CECRA will be available to cover rent for April, May and June, and can be applied for retroactively, with the CMHC accepting applications until August 31.

In order to qualify, small businesses must generate no more than \$20 million in gross annual revenues calculated on a consolidated basis (at the ultimate parent level), have been paying less than \$50,000 per month in gross rent per location (as defined by a valid and enforceable lease agreement) and suffered a 70%

drop in revenues from pre-COVID-19 levels. The 70% drop in revenues can be calculated by comparing revenue for April, May and June of 2020 to revenues from the same months in 2019, or to their average revenue for January and February of 2020. There are certain exceptions to eligible small business tenants which should be reviewed by potential applicants.

The property owner must agree that the loan will only be used in order of priority, for (1) reimbursing impacted tenants for any rent paid above 25% during the eligible period unless the tenant chooses to apply the previously paid rent against future rent; and (2) any costs and expenses relating directly to the property, including any financing held by the property owner operation and maintenance and repair obligations (such as costs of common area maintenance, property taxes, insurance and utilities). The property owner is required to maintain proper and detailed records of these expenses. If the property owner fails to meet the requirements of the program, any loan granted must be repaid by December 31, 2020. The loan will be without interest unless the property owner defaults under the loan agreement

The CECRA for small business application portal opens at 8:00 a.m. EST on May 25, 2020. Commercial property owners must register on staggered dates once the application portal opens. Once registered, the portal will be available 24/7 for applicants to input data and upload documents. CMHC has provided sample documents which can be viewed at "[What you need to apply](#)". The sample documents consist of a Tenant's or Sub-Tenant's Attestation, a Property Owner's Attestation, a Rent Reduction Agreement and a Forgivable Loan Agreement.

Property owners must provide the following: the property address, property type, property tax statement, latest rent roll for each property and the number of commercial units. Property owners must provide: banking information (including bank statement), property contact information, and co-ownership information. Tenants must provide: contact information, registered business name, lease area and the monthly gross rent for the period of April, May and June 2020.

by Janet Derbawka

a cautionary note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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