

Trudeau Promises Rental Assistance to Commercial Tenants – But No Details Yet

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By Robert Eisenberg

As the various levels of government continue to monitor the impact of COVID-19, each government's response continues to evolve.

Premier Doug Ford announced that Ontario was under a state of emergency and all non-essential businesses were ordered to close effective March 24, 2020 in order to help contain the spread of the virus and "flatten the curve". The order was initially in place for 14 days, but remains in effect, preventing businesses such as restaurants, bars, retail stores, theatres and fitness centres from continuing their normal day-to-day operations at a minimum, or even preventing them from operating at all.

These and other governmental restrictions, coupled with the ongoing wave of COVID-19, have forced business owners to make difficult decisions, and in some cases, shut down. One of the biggest issues facing businesses is the payment of rent, which often constitutes their most significant expense. Tenants' cash flow issues and inability to make rental payments (or full rental payments) in turn prevents landlords from keeping up with their own expenses.

Each level of government has implemented a number of programs and policy responses to help businesses during this time, but there has yet to be any dedicated rental assistance for commercial tenants. However, on April 16, 2020 Prime Minister Justin Trudeau announced the **Canadian Emergency Commercial Rent Assistance (CECRA)** program to provide rent support for small businesses that are impacted by the pandemic. According to Trudeau, the program is intended to provide loans, including forgivable loans, to commercial property owners who in turn will lower or forgo the rent of small businesses for the months of April (retroactively), May, and June. The details of CECRA have yet to be announced and are still being negotiated between Ottawa and the provinces, as commercial tenancies fall under provincial jurisdiction. It remains to be seen how broad the eligibility requirements for this commercial rent relief will be, what kind of relief CECRA will actually provide, and how quickly it will be delivered.

Please continue to check this article as we will be updating it as more information on CECRA becomes available.

In the interim, landlords and tenants should be aware of other government emergency relief programs to help them weather the economic impact of COVID-19:

The federal government has invested more than \$70 billion into programs designed to help organizations cover their payroll expenses:

- The Canada Emergency Wage Subsidy (CEWS) provides a subsidy of up to 75% for eligible employee wages between March 15, 2020 and June 6, 2020. To be eligible for CEWS, an employer must experience a year-over-year drop in revenues of 15% in March 2020 or 30% in April or May 2020.
- The Temporary Business Wage Subsidy may be available for those who are not eligible for CEWS. This program provides a 10% wage subsidy between March 18, 2020 and June 19, 2020 with a maximum subsidy of \$1,375 per employee and a maximum of \$25,000 per employer.

- The National Research Council's IRAP Innovation Assistance Program provides wage subsidies to some small and medium-sized employers pursuing technology-driven innovation who are ineligible for CEWS. The subsidies cover up to 80% of salaries and 50% of contractor costs for a period of up to 12 weeks.
- The maximum length of Work-sharing plans has been extended to 76 weeks. Work-sharing plans provide EI benefits to groups of employees who have experienced a reduction of work hours of at least 10% for reasons outside the control of their employers. Putting in place a work-sharing plan involves an agreement between the employer, the affected employees and Service Canada.
- Canada Summer Jobs Program has been modified, including increasing the wage subsidy to 100% of the provincial/territorial minimum wage and extending the end date for employment from August 28, 2020 to February 28, 2021.

Businesses and non-profits can take advantage of relief measures from all three levels of government with regards to taxes, utilities and other fees:

- The filing date for corporations/individuals has been extended to June 1, 2020 and corporations/individuals can defer payment of any income tax amounts until September 1, 2020 with respect to any income tax that becomes owing between March 18, 2020 and August 31, 2020.
- Due dates for GST/HST payments as well as customs duty owing have been deferred to June 30, 2020. The deadline for businesses to file their returns is unchanged, however, the CRA will not impose penalties where a return is filed late provided that it is filed by June 30, 2020.
- The Government of Ontario is providing temporary 45-day emergency relief by applying the off-peak rate of 10.1¢ per kWh at all times beginning March 24, 2020. In addition, Toronto Hydro has extended its current suspension of electricity disconnections until July 31, 2020.
- The Government of Ontario is not applying any penalties or interest on late-filed returns or incomplete or late tax payments between April 1, 2020 and August 31, 2020 under select provincially administered taxes such as Employer Health Tax, Tobacco Tax and Gas Tax.
- For 2020, the Government of Ontario is increasing the amount of initial payroll expenses exempted from the Employer Health Tax (EHT) from \$490,000 to \$1 million. This amounts to relief of up to \$9,945.
- Working in conjunction with the Government of Ontario, the Workplace Safety and Insurance Board will allow employers to defer payments to August 31, 2020.
- The City of Toronto will suspend all pending automated withdrawals of property taxes for 60 days. The City is providing a grace period for payments and payment penalties for 60 days, starting March 16, 2020.
- The City of Toronto is also extending the due date for all utility bills by adding 60 days to the standard due date of 21 days after the billing date.

Finally, the federal government is working to improve access to capital:

- The Government of Canada is guaranteeing loans of up to \$40,000 for businesses and non-profits with between \$20,000 and \$1.5 million in payroll expenses in 2019. The Canada Emergency Business Account loans are interest free and there are no minimum monthly principal payments until December 31, 2022. However, if \$30,000 is fully repaid on or before December 31, 2022, the remaining \$10,000 will be forgiven.
- Export Development Canada (EDC) is working with private sector lenders to coordinate on credit solutions for individual businesses. The EDC loan guarantee allows financial institutions to issue operating credit and cash flow term loans of up to \$6.25 million to existing clients who are small and medium-sized businesses, with 80 percent guaranteed by EDC and to be paid within one year.
- Business Development Bank of Canada (BDC) is working with private sector lenders to coordinate on credit solutions for individual businesses. BDC is working with financial institutions to co-lend term loans to small and medium-sized enterprises for amounts of up to \$6.25 million (80% of financed amount provided by BDC and the remaining 20% by our financial

institution). The loans are interest free for the first 12 months and have a 10-year repayment period.

Should you have any questions about CECRA, the emergency relief programs being offered by the government or any landlord-tenant matters during this difficult time, please contact one of the lawyers in our [Commercial Leasing Practice Group](#) and we would be pleased to assist you.

[Click here for our latest update on the CECRA.](#)

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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