



CARES Act and Interagency Guidance Encourage Loan Modifications Related to COVID-19

Hinckley Allen Real Estate

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The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) enacted on March 27, 2020 provides banks and their borrowers with temporary relief regarding troubled debt restructurings (“TDRs”), for short-term loan modifications made in response to COVID-19.

Under the CARES Act, Banks may elect to suspend requirements under GAAP for loan modifications related to COVID-19 that would otherwise be categorized as TDRs. Any such suspension will apply for the term of the loan modification, but only for a loan modification which (a) defers or delays payment of principal or interest for the period of March 1, 2020 through the earlier of December 31, 2020 or 60 days after the end of the COVID-19 national emergency declaration, and (b) applies to a loan not more than 30 days past due as of December 31, 2019. The suspension will not apply to any adverse impact on the credit of a borrower that is not related to COVID-19.

This relief under the CARES Act echoes a [prior interagency guidance](#) for COVID-19 related loan modifications. On March 22, 2020, the Board of Governors of the Federal Reserve System, other federal financial institution regulators and state banking regulators issued a joint statement encouraging banks and other financial institutions to offer loan modification programs to borrowers adversely impacted by COVID-19. The interagency guidance advises that short-term concessions offered to borrowers will not automatically be deemed TDRs, if they are made as a good faith response to COVID-19 for borrowers who were current prior to the relief. Covered short-term modifications include six-month payment deferrals, fee waivers, extensions of repayment terms, or other insignificant payment delays. Borrowers will be considered current if they are less than 30 days past due on their contractual payments when the modifications are implemented. The FDIC has also advised that such short-term arrangements will not be considered TDRs and should not be reported as nonaccrual assets in regulatory reports. Furthermore, if a financial institution agrees to a payment deferral, such loans will not be considered past due during the deferral period.

We are here to help answer specific questions and offer advice on your options. Feel free to contact any member of our Real Estate Group.

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