

COMMERCIAL MORTGAGE-BACKED SECURITIES LOANS

April 2020



CMBS SUPPORT RESOURCES

Loan servicers cannot foreclose on CMBS loans (Commercial Mortgage-Backed Securities) under rules promulgated by the California Judicial Counsel.

TEMPORARY PROPERTY RELIEF

Under [emergency rules](#) introduced by the California Judicial Counsel on April 6, 2020, courts now have limited ability to oversee and process unlawful detainer evictions and judicial foreclosures. This means that persons or properties which are impacted by the coronavirus have a measure of insulation from immediate property seizures, however, a lender's ability to initiate the foreclosure process is not fully impeded. It is important to note these rules do not constitute loan forgiveness and will terminate 90 days after the end of a state of emergency.

Emergency Rule 1. Unlawful Detainers

A court may not issue a summons on a complaint for unlawful detainer unless the court finds, in its discretion and on the record, that the action is necessary to protect public health and safety.

Emergency Rule 2. Judicial foreclosures—Suspension of Actions

Notwithstanding any other law, this rule applies to any action for foreclosure on a mortgage or deed of trust brought under chapter 1, title 10, of part 2 of the Code of Civil Procedure, beginning at section 725a, including any action for a deficiency judgment, and provides that, until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until this rule is amended or repealed by the Judicial Council:

(1) All such actions are stayed, and the court may take no action and issue no decisions or judgments unless the court finds that action is required to further the public health and safety.

CONTACT LOAN SERVICERS AND MASTERS

To address current and future debt loads, CMBS loan servicers and masters have indicated they are willing to work with borrowers to avoid future foreclosures. Additionally, discussing loan statuses with your CMBS officers can help you determine if you can accept emergency loans from the Small Business Administration or participate in the Paycheck Protection Program.

This is an information service of CHLA. It does not purport to serve as legal or other professional advice, and the counsel of competent professionals should always be sought.

OVERVIEW

In response to the impact on COVID-19 on businesses' ability to service debts, the California Judicial Counsel provided temporary judicial relief to business owners, and the Federal Government is offering emergency aid. However, the Judicial support is temporary and utilizing Federal aid may create contractual issues for CMBS loan holders.

CMBS loan officers are working with businesses to avoid foreclosure and clarify contract restrictions with regard to businesses' ability to receive federal aid. Working with CMBS loan masters and special servicers may help provide clarity on options available to business owners at this time.

- For more information about whether you can access federal stimulus, please contact your CMBS loan master.
- For more information about the California Judicial Counsel Emergency Orders, [click here](#).

CHLA + CABBI Members:

Questions or concerns?

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