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DOES THE CARES ACT APPLY TO OUR PROPERTY?

Because Many Clients have asked us whether the CARES ACT applies to them, Tschetter Sulzer created this document.

Several Important Points to Start:

1. Landlords can only determine CARES applicability by knowing with certainty program types and mortgage types.
2. Tschetter Sulzer has no way of knowing this information. Further, if we are asked to give an opinion we would require written documentation of program type or mortgage, i.e. be provided a copy of the property mortgage.
3. If provided this information we can assist, however, this is significant legal work that would be billed at our normal hourly rates.

INFORMATION THAT YOU CAN UTILIZE TO DETERMINE WHETHER CARES APPLIES TO YOUR PROPERTY.

- What is CARES?

CARES is the Coronavirus Aid Relief & Economic Security Act.

- CARES was signed into law by President Trump on March 27, 2020
- In Summary CARES applies to to Covered Properties:
 - A Covered Property is:
 - A property that participates in a covered program (as defined by Section 41411(a) of the Violence Against Women Act of 1994 (34 USC 12491(a))) (See Definitions Below)
 - Participates in the the rural housing voucher program 42 USC 1490r
 - Has a Federally backed mortgage loan; or

- Has a Federally backed multifamily mortgage loan (See Definitions Below)
- CARES imposes a 120 Day Moratorium on Evictions (the “120 Day Period”) on all Covered Properties
- The 120 Days Expires on July 25, 2020

DETAILED EXPLANATION AND DEFINITION OF CARES TERMS THAT DETERMINE COVERED PROGRAMS AND PROPERTIES

- Federally Backed Mortgage Loan
- Federally Backed Multifamily Mortgage Loan
- Covered Properties (Properties that participates in a covered program (as defined by Section 41411(a) of the Violence Against Women Act of 1994 (34 USC 12491(a)))
- Covered Housing Programs

FEDERALLY BACKED MORTGAGE LOAN

- any loan other than temporary financing

- (A) Secured by a lien on residential property, and
- (B) Is made, insured, guaranteed, supplemented, or assisted in any way, by an officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the HUD or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage on Corporation (Freddie Mac) or the Federal National Mortgage Association (Fannie Mae)

FEDERALLY BACKED MULTIFAMILY MORTGAGE LOAN

- any loan other than temporary financing

- (A) secured by a lien on residential multifamily real property, and
- (B) Is made, insured, guaranteed, supplemented, or assisted in any way, by an officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the HUD or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage on Corporation (Freddie Mac) or the Federal National Mortgage Association (Fannie Mae)

COVERED PROGRAMS:

CARES states that any property that participates in a covered program (as defined by Section 41411(a) of the Violence Against Women Act of 1994 (34 USC 12491(a))) is a covered property.

34 USC §12491(a) defines covered programs as:

- Department of Housing and Urban Development (HUD)
 - Public housing (42 U.S.C. § 1437d)
 - Section 8 Housing Choice Voucher program (42 U.S.C. § 1437f)
 - Section 8 project-based housing (42 U.S.C. § 1437f)
 - Section 202 housing for the elderly (12 U.S.C. § 1701q)
 - Section 811 housing for people with disabilities (42 U.S.C. § 8013)
 - Section 236 multifamily rental housing (12 U.S.C. § 1715z-1)
 - Section 221(d)(3) Below Market Interest Rate (BMIR) housing (12 U.S.C. § 17151(d))
 - HOME (42 U.S.C. § 12741 et seq.)
 - Housing Opportunities for Persons with AIDS (HOPWA) (42 U.S.C. § 12901, et seq.)
- McKinney-Vento Act homelessness programs (42 U.S.C. § 11360, et seq.)
Department of Agriculture
 - Section 515 Rural Rental Housing (42 U.S.C. § 1485)
 - Sections 514 and 516 Farm Labor Housing (42 U.S.C. §§ 1484, 1486)
 - Section 533 Housing Preservation Grants (42 U.S.C. § 1490m)
 - Section 538 multifamily rental housing (42 U.S.C. § 1490p-2)
- Department of Treasury
 - Low-Income Housing Tax Credit (LIHTC) (26 U.S.C. § 42)