

COVID-19 RESOURCE CENTER

COVID-19 and Governmental Measures in Housing Sector

April 2, 2020

This memorandum is an overview of the recent governmental measures announced with respect to the Housing Sector in British Columbia in response to the COVID-19 pandemic. Please note that this is a very fluid situation and these measures are subject to change. We intend to update the information as the situation continues to evolve.

As of April 2, 2020, there are a variety of actual and proposed governmental measures regarding the following: 1) Tenants 2) Mortgage Payment Deferrals 3) CMHC Policies 4) Access to Credit 5) Payroll Assistance Policies 6) Construction Sites 7) Taxes and 8) Other Related Government Action.

Government and industry measures affecting the housing sector as a result of the COVID-19 pandemic are rapidly changing and evolving and this memorandum should be reviewed in the context of its effective date of April 2, 2020.

1. TENANTS

B.C. Provincial Government: Supplement for Residential Renters, Freeze on Evictions and Rent, Additional Rights and Restrictions for Landlords [Updated April 2]

The Province announced a series of measures to assist residential tenants and landlords. On March 30, 2020 the Province of British Columbia approved a Residential Tenancy (COVID-19) order pursuant to the state of emergency (the “**Residential Tenancy Order**”).

Rent Rebate: The temporary rent supplement will provide up to \$500/month for renters affected by the COVID-19 outbreak. This supplement will be provided through B.C. Housing to renters for the next three months. The supplement can be applied for through an online application process that will be available in mid-April. The payment will go directly to landlords. It has not yet been determined if the supplement will apply per renter or per suite.

Rent Increases: If a landlord gave a notice of rent increase to a tenant before March 30 and the effective date is after March 30 or gives notice of any rent increase while the Residential Tenancy Order is in effect, the rent increase does not take effect unless the rent increase is for one or more additional occupants and authorized under the tenancy agreement by the *Residential Tenancy Act*. If a landlord collects a rent increase that does not comply while a Residential Tenancy Order is in effect, the tenant may deduct the increase from the rent or otherwise recover the increase.

Common Areas: Landlords may restrict access to common areas in shared buildings, such as laundry rooms or games rooms if restriction is necessary to protect the health, safety and welfare of the landlord, occupant, tenant or guest due to the COVID-19 pandemic or to comply with health orders or guidelines of the B.C. Centre for Disease Control. A landlord may not prevent or interfere with the access of a guest to a tenant’s rental unit.

Access: A landlord cannot enter a rental unit, even if the landlord gave a tenant written notice, without the consent of the tenant. If a landlord gave written notice before March 30, 2020, that notice is null and void. Landlords can only enter rental units without consent of the tenant if there is an emergency in relation to the COVID-19 pandemic and the entry is necessary to protect health, safety or welfare of the landlord, the tenant or other occupants.

Eviction Moratorium: A landlord must not give a tenant a notice to end tenancy while the Residential Tenancy Order is in effect. If a landlord gave a tenant a notice to end tenancy before March 30, then the notice to end tenancy remains valid (subject to dispute resolution) and an order of possession may be granted but enforcement to evict the tenant will be delayed until after the Residential Tenancy Order ceases to apply.

Orders of Possession: Orders of possession cannot be granted or enforced until after the Residential Tenancy Order is lifted except in exceptional circumstances, such as, the tenant has seriously jeopardized the health or safety of the landlord or another occupant, to comply with an order of a federal, British Columbia, regional or municipal government authority and it would be unreasonable to wait for the Residential Tenancy Order to no longer be in effect.

Source: <https://news.gov.bc.ca/releases/2020MAH0048-000561>;
http://www.bclaws.ca/civix/document/id/mo/mo/2020_m089

City of Vancouver: Developers asked to voluntarily hold off on evictions

The City has asked developers to voluntarily and indefinitely hold off on evicting tenants if the eviction is for redevelopment and therefore falls under the city's tenant relocation policies.

B.C Housing: Temporary eviction moratorium

B.C. Housing has announced a temporary eviction moratorium on evictions of tenants in BC Housing subsidized and affordable housing during the COVID-19 outbreak. They ask that landlords take all circumstances into consideration before evicting someone who is threatening the life, health or safety of others or putting tenants or staff in imminent danger.

B.C. Housing has also streamlined the process for applying for rent reduction to those who have lost income as a result of COVID-19. Effective April 1, Rent-Gear-to-Income tenants subsidized through BC Housing can apply for re-calculation as a result of loss of employment income due to COVID-19.

Source: <https://www.bchousing.org/COVID-19>

Residential Tenancy Considerations [Updated April 2]

There are various implications to some of the current policies and measures put in place by the federal, provincial and municipal government on residential tenancies. The restrictions to access include that a landlord cannot enter the rental unit for open houses or to show the unit to prospective purchasers without the consent of the tenant. A tenant occupied property in B.C. can still be purchased and sold while the Residential Tenancy Order is in effect,

but the Landlord cannot require the tenant to vacate the property. Legal advice should be sought if a purchase agreement requires vacant possession.

In addition, the B.C. Supreme Court has suspended its operations, and there are similar delays and suspensions in other courts and administrative tribunals. This means that during this time, it will be difficult if not impossible to enforce tenancy agreements or provisions under the residential tenancy regime on short notice. Furthermore, it is unclear at this stage whether conduct of organizations or individuals during this uncertain time will lead to civil litigation down the road.

Commercial Tenancy Considerations [Updated April 2]

The government has not implemented any specific programs or policies to provide rent relief to commercial tenants. The provincial and federal governments are encouraging commercial landlords to offer direct relief to their tenants.

2. MORTGAGE PAYMENT DEFERRALS

Residential Mortgage Deferrals

Various major banking institutions in Canada have begun offering payment deferrals for residential mortgages and credit relief in response to the COVID-19 outbreak. Customers are encouraged to contact the bank to see what options may be available.

| <u>BANK</u> | <u>MEASURE</u> |
|------------------------|--|
| Scotiabank | Relief available on a case-by-case basis, if you, or any member of your family, has become unemployed or experiences a material reduction in income due to COVID-19. These relief measures include mortgage payment deferral for up to six-months and other support measures on a case-by-case basis. Scotiabank is clear that Interest will continue to accrue. <i>Source:</i> https://www.scotiabank.com/ca/en/about/perspectives.articles.economy.scotiabank-announces-support-for-those-impacted-by-covid-19.html |
| TD Canada Trust | Relief available on a case-by-case basis for those experiencing disruption due to COVID-19, childcare disruption due to school closures, or those facing illness from COVID-19. This support will include up to a six-month payment deferral for mortgages, and the opportunity for relief on other credit products. <i>Source:</i> https://www.td.com/ca/en/personal-banking/covid-19/ |
| BMO | Relief available on a case-by-case basis for those experiencing disruption due to COVID-19. This support will include up to a six-month payment deferral for mortgages, and the opportunity for relief on other credit products such as deferral of payments on loans and credit cards for up to three months. <i>Source:</i> https://www.bmo.com/main/personal/bmo-branches-coronavirus-update/ |

RBC Relief available on a case-by-case basis, for both individuals and businesses as a result of COVID-19. The relief includes up to a six-month payment deferral for mortgages, and the opportunity for relief on other credit products such as deferrals on auto and personal loans, and skipping a monthly payment on credit cards.

Source: <https://www.rbc.com/covid-19/index.html>

CIBC Relief available on a case-by-case basis for those experiencing disruption due to COVID-19. This support will include up to a six-month payment deferral for mortgages, and the opportunity for relief on other credit products.

Source: <https://www.cibc.com/en/personal-banking/advice-centre/covid-19.html>

National Bank Relief available on a case-by-case basis for individuals and small business if they experience disruption due to COVID-19. This support will include up to a six-month payment deferral for mortgages, and the opportunity for relief on other credit products.

Source: <https://www.nbc.ca/en/about-us/news/news-room/press-releases/2020/20200317-six-grandes-banques-canadiennes-mesures-decisives-COVID-19.html>

Commercial Mortgage Deferrals [Updated April 2]

CMHC and the Office of the Superintendent of Real Estate in British Columbia are advocating for commercial mortgage deferrals. We understand institutions are working with commercial clients on a case by case basis and CIBC is implementing a 3-month mortgage deferral program for all commercial clients.

3. CMHC POLICIES

CMHC: Expanding Revised Insured Mortgage Purchase Program

As part of the measures passed by the Federal Government in the Emergency Response Act, the government is ready to purchase up to \$150 billion of insured mortgage pools through CMHC, an increase of \$100 billion from the \$50 billion previously announced on March 16, 2020. CMHC is also ready to expand the purchase of Canada Mortgage Bonds to a total annual issuance of up to \$60 billion depending on market conditions and investor demand.

Source: <https://www.cmhc-schl.gc.ca/en/media-newsroom/news-releases/2020/cmhc-expands-insured-mortgage-purchase-program>

CMHC: Temporarily Suspends Dividend

CMHC has announced that it will be temporarily suspending dividend payments during the COVID-19 pandemic to conserve capital.

Source: <https://www.cmhc-schl.gc.ca/en/media-newsroom/news-releases/2020/cmhc-temporarily-suspends-dividend-amid-covid-19-pandemic>

Federal Government: Mortgage payments deferred on homeowner CMHC-insured mortgage loans

The Government, through CMHC, is providing increased flexibility for homeowners facing financial difficulties to defer mortgage payments on homeowner CMHC-insured mortgage loans. CMHC will permit lenders to allow payment deferral beginning immediately.

Source: <https://www.canada.ca/en/departement-finance/economic-response-plan.html>

CMHC: Instituting a Revised Insured Mortgage Purchase Program

CMHC will initiate a revised Insured Mortgage Purchase Program, a market liquidity tool used in the Global Financial Crisis. This is part of a package that includes complementary market support activity from the Bank of Canada. CMHC has scaled the solution to the problem and will have \$50 billion available to purchase insured mortgage pools. CMHC is also working with the government on expanding CMHC's authorities.

Source: <https://www.cmhc-schl.gc.ca/en/media-newsroom/news-releases/2020/measures-support-continued-lending-canadian-consumers-businesses>

CMHC: Suspending Quality Assurance Reviews and other Interventions, Requests Housing Providers Refrain from Evictions

CMHC will temporarily suspend quality assurance reviews and other interventions. CMHC also expects that any housing provider who has received financing or support from CMHC, directly or via provinces and territories, to act compassionately and refrain from evictions.

Source: <https://www.cmhc-schl.gc.ca/en/media-newsroom/notices/2020/message-from-president-to-clients-covid-19>

4. ACCESS TO CREDIT

According to the Department of Finance website, the below programs will roll out in the three weeks following March 27, and interested businesses should work with their current financial institutions.

Federal Government: Government Guaranteed Loan of up to \$40,000 for Small and Medium Sized Businesses

The Federal Government announced the creation of the Canada Emergency Business Account. Major banking institutions are to offer up to \$40,000 in interest-free loans for small and not-for-profits in Canada. These loans will be guaranteed by the Federal Government. Finance Minister Bill Morneau stated in a live Q&A period that if the loan is paid back by the end of the first part of the term then up to 25% of the loan will be forgiven.

To qualify, these organizations will need to demonstrate they paid between \$50,000 to \$1 million in total payroll in 2019.

Source: <https://www.youtube.com/watch?v=SPAdpHog5E4>; https://www.canada.ca/en/department-finance/news/2020/03/additional-support-for-canadian-businesses-from-the-economic-impact-of-covid-19.html#_New_Loan_Programs

Federal Government: New Loan Guarantee for Small and Medium-Sized Enterprises

Export Development Canada (EDC) is working with financial institutions to issue new operating credit and cash flow term loans of up to \$6.25 million to Small and Medium Enterprises. EDC will provide guarantees to financial institutions to open up these new lines of credit. The loans will be 80% guaranteed by EDC, to be repaid within one year.

Business Development Bank of Canada (BDC) is working with financial institutions to co-lend term loans to Small and Medium Enterprises for their operational cash flow requirements. Eligible businesses may obtain incremental credit amounts of up to \$6.25 million, which will be risk-shared at 80% between the BDC and the financial institutions. Eligible businesses may obtain incremental credit amounts of up to \$6.25 million through the program.

Source: https://www.canada.ca/en/department-finance/economic-response-plan/covid19-businesses.html#business_credit_availability_program; <https://pm.gc.ca/en/news/news-releases/2020/03/27/prime-minister-announces-support-small-businesses-facing-impacts>

5. PAYROLL ASSISTANCE POLICIES

Federal Government: 75% Subsidy on Wages Businesses affected by COVID-19 [Updated April 2]

The subsidy will be available to all businesses, regardless of number of employees or size, whose revenues have decreased by at least 30% due to the COVID-19 pandemic. The Federal Government will subsidize up to 75% of wages on the first \$58,700 of earnings per employee, for a maximum of up to \$847 per week per employee. The entitlement to subsidy will be based entirely on the salary or wages actually paid to the employee.

This subsidy will be backdated to March 15, 2020 and will be provided for a twelve-week period through to June 6, 2020. The Prime Minister and Finance Minister warned there will be severe consequences for businesses caught abusing the subsidy, but no further details were provided.

To be eligible businesses must demonstrate that their revenues for each month for which they are seeking the subsidy are 30% less than the revenue in the same month in 2019. If the business is unable to do this, for example if the business earned no revenue in the applicable period in 2019, the government of Canada is looking into alternate ways for them to demonstrate that they have been sufficiently impacted. Additionally, businesses will need to attest that they are doing everything in their power to pay the remaining 25% to their employees.

Businesses will apply on a portal on the Canada Revenue Agency website and will be required to apply monthly. More details on the application process are expected soon. Finance Minister Bill Morneau encouraged business to set up direct deposit now with the Canada Revenue Agency.

Source: <https://www.youtube.com/watch?v=wnKMCeWRtVA>; <https://www.youtube.com/watch?v=PNgcy5URJ6A>; <https://www.canada.ca/en/department-finance/news/2020/04/government-announces-details-of-the-canada-emergency-wage-subsidy-to-help-businesses-keep-canadians-in-their-jobs.html>

Federal Government: 10% Subsidy to Businesses who do not meet 30% Threshold to be Eligible for the 75% Subsidy [Updated April 2]

For employers who have not seen a loss of at least 30% revenue over the previous year, the Federal Government will provide those employers with a smaller temporary wage subsidy for a period of three months. The subsidy will be equal to 10% of remuneration paid from March 18th to June 20th, up to a maximum subsidy of \$1,375 per employee and \$25,000 per employer. Businesses will be able to benefit immediately from this support by reducing their remittances of income tax withheld on their employees' remuneration.

To be eligible, the employer must be an individual, partnership, non-profit, registered charity, or Canadian-controlled private corporation eligible for the small business deduction with an existing business number and payroll program with the CRA as of March 18, 2020, and pay salary or wages to an individual employed in Canada.

The business does not need to apply for the subsidy, but will instead continue deducting income tax, Canada Pension Plan (CPP) contributions, and Employment Insurance (EI) premiums from salary, wages, bonuses, or other remuneration paid employees. The employer will then calculate the amount of the subsidy themselves and then reduce their current payroll remittance of federal, provincial, or territorial income tax sent to the CRA by the amount of the subsidy. If income taxes deducted do not offset the value of the subsidy in a specific period, the employer may reduce future payroll remittances to benefit from the subsidy.

If you did not pay any salary, wages, bonuses or other remuneration to an eligible employee from March 18, 2020 to June 19, 2020, you cannot receive the subsidy.

Source: <https://www.canada.ca/en/department-finance/news/2020/04/government-announces-details-of-the-canada-emergency-wage-subsidy-to-help-businesses-keep-canadians-in-their-jobs.html>;
<https://www.canada.ca/en/revenue-agency/campaigns/covid-19-update/frequently-asked-questions-wage-subsidy-small-businesses.html#h1>

Federal Government: Enhance Work-Sharing Program

The Government of Canada will also introduce enhancements to the Work-Sharing Program to help employers who are experiencing a downturn in business due to COVID-19, and their workers. These measures extend the duration of Work-Sharing agreements by an additional 38 weeks, for a total of 76 weeks. The mandatory waiting period has also been waived so that employers with a recently expired agreement may immediately apply for a new agreement, without waiting between applications and ease Recovery Plan requirements for the duration of the Work-Sharing agreement. These special measures will be effective from March 15, 2020 to March 14, 2021.

Applications may be made by employers who are experiencing a downturn in business activity related to the global outbreak of COVID-19, and have:

1. Work-Sharing agreements signed between March 15, 2020 and March 13, 2021;
2. Work-Sharing agreements that began, or ended between March 15, 2020 and March 14, 2021; and
3. Work-Sharing agreements that ended between June 23, 2019, and March 14, 2020 and are in their mandatory cooling-off period.

Source: <https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/canadas-reponse/government-canada-takes-action-covid-19.html#a4>; <https://www.canada.ca/en/employment-social-development/services/work-sharing/temporary-measures-forestry-sector.html>

6. CONSTRUCTION SITES

B.C. Provincial Government: Guidance to Construction Sites

The B.C. Provincial Government has issued the following guidance to construction sites:

1. There should be no more than 50 people in the same space in any circumstances.
2. Where possible, employees should maintain a distance of two metres apart from each other.
3. Post signage that limits the number of occupants in any elevator to four people at a time.
4. Reduce in-person meetings and other gatherings and hold site meetings in open spaces or outside.
5. Increase the number of handwashing stations and post signage that identifies their location.
6. Maintain a list of employees that are currently working on sites and update this list daily.
7. All common areas and surfaces should be cleaned at the end of each day. Examples include washrooms, shared offices, common tables, desks, light switches and door handles.
8. Anyone with COVID-19-like symptoms, such as sore throat, fever, sneezing or coughing, must self-isolate at home for 10 days.

Source: <https://news.gov.bc.ca/releases/2020EMBC0002-000542>

B.C. Provincial Government: 50-Person limit does not apply to construction sites

According to a UDI newsletter dated March 19, 2020, a senior provincial government official has contacted UDI President & CEO Anne McMullin to assure our industry and membership the 50-person limit does not apply to construction sites, and that all sites can and should remain operating.

Sites must continue to conform to Worksafe BC practices and current COVID-19 prevention protocols. That means additional handwashing stations should be made available, that workers should maintain their social distance of 1-2 metres from one another and during any on-site meetings.

In addition, the Provincial Health Officer Dr. Bonnie Henry said during the March 17, 2020 news conference, shortly after the 1:02 mark that "Construction work outside is not as much of a risk that we are concerned about...*but anyone who's sick should not be going to work.*"

7. TAXES

BC Property Assessment Appeal Board: Extension for Appeals [Updated April 2]

The Property Assessment Board has extended the mandatory time period for property tax appeals for all appeals that were required to be filed by April 30, 2020 to June 1, 2020. This extension only applies to appeals to be filed by April 30, 2020.

Source: *Property Assessment Appeal Board*

B.C. Provincial Government: School Tax Cut in Half

The school tax will be cut in half for business and light- and major-industry property. The Provincial Government states that this will provide \$500 million in immediate relief for business that own their property and allow commercial landlords to immediately pass savings on to their tenants in triple-net leases.

Source: <https://news.gov.bc.ca/releases/2020PREM0013-000545#>

Provincial Government: Deferral Option for Health Tax Payments

Effective immediately, businesses with a payroll over \$500,000 can defer their employer health tax payments until September 30, 2020.

Source: <https://news.gov.bc.ca/releases/2020PREM0013-000545#>

Federal Government: Deferral Option for GST, HST, Duties and Taxes on Imports

The Federal Government has announced that businesses may defer their GST and HST payments as well as duties and taxes on imports until June 2020.

Source: <https://www.youtube.com/watch?v=SPAdpHog5E4>; <https://ottawacitizen.com/news/local-news/covid-19-trudeau-announces-government-will-pay-75-of-wages-for-small-and-medium-sized-businesses/>

B.C. Provincial Government: Payment Deadlines on Various Provincial Taxes Extended until September 30, 2020

Payment deadlines for the provincial sales tax (PST), health tax, municipal and regional district tax, tobacco tax, motor fuel tax and carbon tax until September 30, 2020. The scheduled April 1, 2020 increase to the provincial carbon tax will be delayed and timing will be reviewed by September 30, 2020.

Source: <https://news.gov.bc.ca/releases/2020PREM0013-000545#>

Canada Revenue Agency: Businesses Permitted to Defer Payment of Income Tax Amounts

CRA will allow all businesses to defer, until after August 31, 2020, the payment of any income tax amounts that become owing on or after today and before September 2020. This relief would apply to tax balances due, as well

as instalments, under Part I of the Income Tax Act. No interest or penalties will accumulate on these amounts during this period.

Source: <https://www.canada.ca/en/department-finance/economic-response-plan.html>

Provincial Speculation and Vacancy Tax and Property Tax

There have been no updates as of April 2, 2020 at 3:30 p.m. regarding deferring or reducing payment of the speculation and vacancy tax or property tax in British Columbia.

8. OTHER RELATED GOVERNMENT ACTION

BC Hydro: Customer Assistance Program for Individuals and Small Businesses

BC Hydro has introduced a COVID-19 customer assistance program to defer bill payments or arrange for flexible payment plans with no penalty or provide eligible customers a grant up to \$600.

Additionally, B.C. Hydro announced that customers who have lost employment, cannot work due to COVID-19 or are a small business that have been forced to close due to COVID-19 may apply to have bills waived for three weeks. The application form is set to open on April 13, 2020.

Source: <https://www.bchydro.com/news/conservation/2020/covid-19-updates.html>
<https://app.bchydro.com/accounts-billing/bill-payment/ways-to-pay/covid-19-relief-fund.html>

B.C. Government: Defines what Constitutes an Essential Service in B.C. during COVID-19 Pandemic

The Provincial Government released a list to clarify what constitutes an essential service in the context of the COVID-19 pandemic. These are services which the Province states should and are encouraged to remain open. Any business that is not identified as an essential service, and has not been ordered to close, may stay open (at this time) if it adapts its services to the orders and recommendations of the provincial health officer.

Essential services that are relevant to the real-estate sector include:

- land registration services and real estate agent services;
- accounting, payroll, translation services, legal services and insurance providers; insurance assessment and adjudication providers;
- professional services, including lawyers and paralegals, engineers, accountants, translators;
- plumbers, electricians, elevator maintenance providers, exterminators, property management services, custodial/janitorial workers, cleaning services, fire safety and sprinkler systems, building systems maintenance and repair technicians, engineers, mechanics, smelters and other service providers who provide services that are necessary to maintaining the safety, sanitation and daily essential operation of residences and commercial buildings;

FARRIS

- building code enforcement, inspection of buildings, building sites and building systems by building officials and registered professionals (architects and engineers);
- construction work, in accordance with PHO direction, construction firms, skilled trades and professionals, and construction and light industrial machinery and equipment rental;
- inspectors who ensure worksites are safe and health for workers, and who investigate serious workplace accidents;
- banks and their branches, credit unions and related financial institutions, as well as workers who support security and technical operations supporting financial institutions;
- gas stations, diesel, propane and heating fuel providers including providers of motor vehicle, aircraft and water/marine fuels, and providers of charging stations for electric vehicles;
- transitional, social and supportive housing, and single-room occupancy housing;
- capital markets, including the British Columbia Securities Commission, self-regulatory organizations, exchanges, clearing agencies and investment-fund dealers, advisers and managers;
- child care services for those persons providing essential services;
- all government (local, regional, provincial) functions or services.

A complete list of essential services can be accessed on the Province of B.C. website.

Source: <https://news.gov.bc.ca/releases/2020PSSG0020-000568>

City of Vancouver: Fines for Violating Public Safety Orders

Vancouver City council approved special measures including fines up to \$50,000 for violating COVID-19 related orders.

Source: <https://www.citynews1130.com/2020/03/23/vancouver-approves-fines-up-to-50000-for-businesses-caught-violating-covid-19-related-orders/>

Provincial Enforcement

Municipal bylaw officers are enabled to be re-deployed to support enforcement of the provincial health officer's orders and directives carrying fines of over \$25,000 or jail, to be determined by the courts under the authority of the Public Health Act.

Source: <https://news.gov.bc.ca/releases/2020PSSG0020-000568>



Brendan Piovesan
Partner
604 661 1732
bpiovesan@farris.com
Bio



Cassandra Enns
Associate
604 661 1721
cenns@farris.com
Bio



Jonah Brook
Articling Student
604 661 2175
jbrook@farris.com
Bio

Farris communications are intended for informational purposes only and do not constitute legal advice or an opinion on any issue. We would be pleased to provide additional details or advice about specific situations if desired. For permission to republish this content, please contact the Marketing Department at ssangha@farris.com. © 2020 FARRIS LLP