

# COVID-19: New Developments Impacting Commercial Real Estate in Arizona

On April 6, 2020, Arizona Governor Doug Ducey signed a new [Executive Order 2020-21](#) prohibiting small business evictions until May 31, 2020. The order will be of significant interest to developers and owners of commercial property in the state of Arizona and applies to commercial tenants that are eligible for the Federal Paycheck Protection Program, as well as lenders that have provided commercial real estate borrowers with a commercial mortgage loan.

Key components of the order include:

1. Unless a court determines on motion of one of the parties that it is contrary to the interest of justice, a commercial eviction action, including lock out, notice to vacate or any other attempt to inhibit the operations of a business, shall be temporarily suspended for tenants unable to pay rent due to financial hardship caused by the COVID-19 pandemic.
2. Commercial landlords shall consider deferring or adjusting rent payments for commercial tenants that are unable to pay rent due to financial hardship caused by the COVID-19 pandemic.
3. Commercial landlords are encouraged to work with tenants to waive late fees, penalties and interest associated with late rent payments and develop rent repayment plans for those tenants unable to pay rent due to financial hardship caused by the COVID-19 pandemic.
4. A commercial tenant that is suffering any of the above circumstances and seeks a delay in eviction, lock out, other inhibition of operations or requests a reduction or deferral of rent payments shall notify the landlord or property owner in writing as soon as practicable with any available supporting documentation of their inability to pay rent due to temporary financial hardship and acknowledge that contractual terms of the lease remain in effect.
5. Any commercial tenant that receives financial assistance from public programs designed to assist businesses suffering hardships from COVID-19 shall apply a portion of eligible assistance to any past or currently due rents. Landlords may not require that commercial tenants apply specific percentages or amounts of financial assistance to commercial rent.
6. A commercial tenant is defined as any business type that is eligible for the Federal Paycheck Protection Program. This generally includes businesses with fewer than 500 employees in the following categories:
  - A. Sole proprietor
  - B. Partnership
  - C. C-Corporation
  - D. S-Corporation
  - E. Limited liability company
  - F. Independent contractor
  - G. Self-employed individual
  - H. 501(c)(3) organization
  - I. 501(c)(19) organization
  - J. Tribal businesses
7. Lenders that have provided commercial real estate borrowers with a commercial mortgage loan for a property in the state of Arizona shall consider providing an opportunity for a forbearance for any commercial real estate borrower that has suspended any action under the provisions described in this order.
8. No provision contained in this Executive Order shall be construed as relieving any individual or business of the obligation to pay rent, or comply with any other obligation that a business may have under a lease or rental agreement.
9. No provision contained in this order shall be construed to prohibit the continuation of any eviction action or proceeding predating the March 11, 2020 Public Health State of Emergency.
10. This order shall expire on May 31, 2020.

## Contacts

We stand by ready to provide tailored support in helping your business navigate [Executive Order 2020-21](#). Please do not hesitate to contact us.

### **[Bradley E. Wright](#)**

Partner, Phoenix  
T +1 602 528 4016  
E [brad.wright@squirepb.com](mailto:brad.wright@squirepb.com)

### **[Alexis Montano](#)**

Associate, Phoenix  
T +1 602 528 4042  
E [alexis.montano@squirepb.com](mailto:alexis.montano@squirepb.com)