

Canada Emergency Commercial Rent Assistance

May 26, 2020

The federal and provincial governments have announced the Canada Emergency Commercial Rent Assistance (“CECRA”) program. The CECRA will provide forgivable loans to qualifying commercial property owners to cover 50% of three-monthly rent payments that are payable by eligible small business tenants who are experiencing financial hardship in April, May, and June. This program would effectively reduce rent by 75% for small businesses that have been affected by COVID-19.

What is covered by the CECRA?

The commercial tenant is responsible for paying 25% of the monthly rent, the property owner 25%, and the federal and provincial governments share the remaining 50%.

For example, a monthly rent for a small business is \$10,000.

- The landlord forgoes \$2,500 (25% of rent).
- The small business would be responsible for paying \$2,500 (25% of rent).
- The government would cover the remaining \$5,000.

The breakdown of the government assistance of \$5,000 is \$3,750 from the federal government (37.5% of rent) and \$1,250 (12.5% of rent) from the provincial government.

Who is administering the CECRA?

The rent decrease is being implemented by the federal and provincial governments, but is being administered by the Canadian Mortgage and Housing Corporation (CMHC).

Who is an eligible business tenant?

- Small and medium-sized business tenants who are paying less than \$50,000 per month in rent,
- generate no more than \$20 million in gross annual revenues, calculated on a consolidated basis (at the ultimate parent level), and
- who have temporarily ceased operations or have experienced at least a 70% drop in pre-COVID revenues.

Businesses can compare revenues in April, May and June of 2020 to that of the same period in 2019 to measure revenue losses. They can also use an average of their revenues earned in January and February of 2020. Small businesses that opened on or after March 1, 2020 are not eligible.

What are the criteria the property owner (landlord) must meet?

To qualify for CECRA for small businesses, the commercial property owner must:

- own commercial real property which is occupied by one or more impacted small business tenants
- enter (or have already entered) into a legally binding rent reduction agreement for the period of April, May and June 2020, reducing an impacted small business tenant's rent by at least 75%
- ensure the rent reduction agreement with each impacted tenant includes:
 - a moratorium on eviction for the period during which the property owner agrees to apply the loan proceeds, and
 - a declaration of rental revenue included in the attestation

The commercial property owner is not and is not controlled by an individual holding federal or provincial political office.

Properties with or without a mortgage are eligible under the CECRA for small businesses.

CECRA for small businesses does not apply to any properties owned, in whole or in part, by the federal, provincial, or municipal governments with certain exceptions.

Commercial Real Property for the purposes of the CECRA is a commercial property with eligible small business tenants. Commercial properties with a residential component and multi-unit residential mixed-use properties would equally be eligible with respect to their small business tenants.

Other program details for the property owner:

- Property owners must use the funds from the CECRA to refund amounts in excess of 25% paid by the small business tenant for the period in question or, at the option of the impacted tenant, apply rent paid in excess of 25% to future rent owing by the impacted tenant. For example, if rent has been collected at the time of approval, a credit to the tenant for a future month's rent (i.e. July for April) is acceptable — if the tenant chooses this option.
- Order of priority for use of the funds received from the CECRA is as follows:
 - reimbursing impacted tenants for any rent paid above 25% during the eligible period unless the tenant chooses to apply the previously paid rent against future rent
 - any costs and expenses relating directly to the property, including any financing held by the property owner, operation and maintenance and repair obligations (such as costs of common area maintenance, property taxes, insurance and utilities)
- CECRA will be forgiven if the property owner complies with all applicable program terms and conditions — including to not recover forgiven rent amounts when the program is over. This interest free loan will be forgiven on December 31, 2020. To ensure loan forgiveness, the property owner must follow the terms and conditions of the loan, including:
 - complying with the Rent Reduction Agreement
 - ensuring that your attestation and application (including supporting documentation) is accurate and truthful
- If the property owner files for bankruptcy, restructures, reorganizes or dissolves the business, the property owner will need to pay back this loan.
- In the event of default, CMHC has full recourse to recover the CECRA funding from the property owner.

What provinces are participating?

The Alberta, British Columbia, Ontario, and Québec governments will contribute to this initiative by covering their portion of the total cost.

Program length and application deadline:

- The application portal can be accessed via the CMHC website, and will be retroactive to April 1, 2020 for rent for April, May and June.
- The deadline to apply is August 31, 2020.

What is needed to apply?

Property owners will need to provide information in support of their application, sign an attestation and agree to the terms and conditions of the loan agreement in order to be eligible for the program.

The legal version of application documents should be available in the portal.

Tenant or Sub-tenant's Attestation:

Property owners must have each of their eligible commercial small business tenants and/or subtenants sign an attestation. The Tenants are responsible for attesting to their eligibility with the program requirements.

Property Owner's Attestation:

Property owners must sign an attestation confirming the information relating to the property owner and the property provided in the application is correct and attest to their eligibility with the program requirements.

Rent Reduction Agreement:

Property owners must enter into a legally binding rent reduction agreement with each impacted tenant to confirm the rent reduction in accordance with the program terms and conditions. This agreement is conditional upon final approval of the application for the CECRA for small businesses.

Forgivable Loan Agreement:

Property owners must agree to the terms and conditions in the application and outlined in the forgivable loan agreement.

Property owner information:

Property information includes: property address, property type, property tax statement, latest rent roll for each property and the number of commercial units.

Applicant information includes:

Banking information (including bank statement), property owner contact information, co-ownership information and contact details for co-owners.

Tenant information:

Tenant information includes: tenant contact information, registered business name, lease area and the monthly gross rent for the period of April, May and June 2020.