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June 8, 2020

The Honorable Maxine Waters
Chairwoman
Financial Services Committee
U.S. House of Representatives

The Honorable Wm. Lacy Clay
Chair
Subcommittee on Housing, Community
Development and Insurance
U.S. House of Representatives

Dear Chairwoman Waters, Chair Clay, and Ranking Members McHenry and Stivers:

A specific rent assistance program for both residential and business tenants is needed to:

- *Keep workers housed and employed;*
- *Maintain property taxes for state and local budgets that pay for essential community services;*
- *Safeguard Americans' retirement savings; and*
- *Avoid a cascade of mortgage foreclosures.*

The Real Estate Roundtable (www.rer.org)¹ submits this letter for the record of the virtual hearing entitled, [“The Rent is Still Due: America’s Renters, Covid-19, and an Unprecedented Eviction Crisis.”](#) scheduled on June 10, 2020, by the Subcommittee on Housing, Community Development, and Insurance.

As the fallout from the pandemic enters month five, American households and businesses remain fearful about their uncertain economic futures. Families and businesses are unable and reluctant to meet ordinary fixed expenses – like paying their rent. Congress should develop a solution to this serious problem. Broad support across industry sectors can be built for tailored assistance to help residential and business tenants alike meet their contractual rent obligations during this time of crisis. Bipartisan consensus can be achieved for a program that helps tenants – financially impacted by Covid-19 – stay current on rent obligations, because it will be key for our economy’s long-term recovery.

¹ The Roundtable brings together leaders of the nation’s top publicly-held and privately-owned real estate ownership, development, lending and management firms with leaders of the major national real estate trade associations to jointly address key national policy issues relating to real estate and the overall economy. The Roundtable’s leaders seek to ensure that a cohesive industry voice is heard by government officials and the public about real estate and its important role in the global economy. Collectively, Roundtable members’ portfolios contain over 12 billion square feet of office, retail and industrial properties valued at more than \$3 trillion; over 2 million apartment units; and in excess of 3 million hotel rooms.

Moreover, struggling businesses are not interested in taking on new debt right now to help pay their rent. More leverage on balance sheets will only further delay recovery of shuttered businesses that already find themselves “in the red” and lack the income to meet currently due and owing obligations.

Articles and studies cited in the attachment to this letter² describe drastic declines in rent collections since April, especially from businesses in the retail and hospitality sectors. Rents paid by retail tenants shuttered by government orders are down 50% from pre-Covid levels. Anecdotal reports alert that rent collections from enclosed mall tenants (different from open-air shopping centers) are even worse.

The severely depressed state of business rent collections is a foreboding sign of diminishing commercial real estate asset values. As explained in more detail below, declined asset values mean less property tax revenues for state and local governments to pay for infrastructure and essential health care and first-responder services. Declined asset values also reflect the deep losses that U.S. financial institutions and investors may incur, and that workers’ retirement plans might sustain, in their commercial real estate portfolios.³ One article put the problem this way, in explaining the “alarming chain reaction” that spreads throughout the economy when business tenants fail to pay their rents:

“The problem for the broader U.S. economy is that when businesses ... stop paying rent, it sets off an alarming chain reaction. Landlords are now at risk of bankruptcy, too. Commercial real estate prices are falling. Jobs at property management companies and landscapers face cuts. Banks and private investors are unwilling to lend to most commercial real estate projects anymore, and cash-strapped city and local governments are realizing the property taxes they usually rely on from business properties are unlikely to be paid this summer and fall.”⁴

The inability of businesses to meet ordinary expenses like rent payments is even more pronounced in the Covid-19 era among enterprises owned by minorities, women, and veterans. One poll reports that 34% of small businesses overall cannot meet rent since government orders shuttered businesses – with “Covid-19 quarantines ... especially difficult on women-owned, minority-owned, and veteran-owned businesses.”⁵ Likewise, Federal Reserve data cited in a recent McKinsey & Company report indicate Covid-19’s disproportionate economic impact on minority-owned businesses as twice as likely to be classified as “at risk” or “distressed” compared to businesses *not* owned by minorities.⁶

On the residential side, apartment rental payments have been faring better for the time being. Over 80% of multifamily residential tenants payed their April and May rents.⁷ However, as the pandemic drags on and as unemployment insurance and other means of CARES Act support run dry, households face mounting financial insecurity. Families are worrying about how they will pay for basic necessities like housing rent in the months ahead.

² Footnotes 24-31.

³ Footnotes 15-21.

⁴ “The next big problem for the economy: Businesses can’t pay their rent,” [Washington Post \(June 4, 2020\)](#).

⁵ “34% of Small Businesses Can’t Cover May Rent,” [Alignable \(April 28, 2020\)](#) (results of poll conducted April 24-26) (“[M]ore than half of all women-owned businesses (52%) report being closed, while similar figures surfaced for minority-owned businesses (48%) and veteran-owned companies (44%). That’s compared to all other businesses, where only 38% have shut their doors.”).

⁶ McKinsey & Company, [“Covid-19’s effect on minority-owned businesses in the United States”](#) (May 2020).

⁷ <https://www.globest.com/2020/05/11/80-of-apartment-renters-paid-rent-in-first-week-of-may/>

Congress has taken minor steps to address the rent crisis, but bigger actions are needed.

Federal Reserve Chair Jerome Powell recently encouraged Congress to enact bolder policies to avoid business insolvencies and look toward sustained recovery – so workers have jobs to return to.⁸

The last thing struggling businesses will need when they re-open is to be bogged down with months of missed legacy rents that they remain bound to pay. Assuming more debt to pay these expenses, and dig businesses in an even deeper hole, is not an attractive option. In this regard, forgivable Paycheck Protection Program (PPP) loans have provided some help for eligible small businesses (essentially, those that do not normally qualify for traditional financing or truly “mom and pop” concerns). However, the PPP’s overriding (and proper) objective is to keep workers on payroll with benefits – not to help business tenants meet monthly rent. Bipartisan reforms to the PPP’s “75-25 Rule” recently passed by both the House and Senate⁹ are a step in the right direction, but they do not go far enough to place impacted businesses on a steady path to long-term recovery and remain solvent. Tinkering with the “75-25 Rule” does not change the CARES Act’s underlying structure which constrains PPP loan amounts based on a formula pegged to 2.5 times *payroll* expenses – not 2.5 times *operating* expenses.¹⁰ Moreover, with the vast majority of these SBA loans sized at \$50,000 or less,¹¹ the PPP simply lacks the capacity to make a consequential dent in the extensive business rental income crisis.

Another notable legislative proposal incorporated into the HEROES Act recently passed by the House¹² builds on an existing and important state grant program to address the scourge of homelessness.¹³ The proposal would expand availability of these grants to provide more rent help for predominantly low-income households (with some limited, discretionary funds marginally reserved for middle-income renters). As with the PPP’s curbed support for business tenants, this emergency residential rent program would be a good start. But it would not be enough, because it is too restrictive in only helping certain impacted residential tenants (and does nothing to assist business tenants shuttered or otherwise economically impacted by the pandemic). Congress should certainly help households on the brink of homelessness and in distressed communities. It should also go further to vigorously assist the heroic nurses, first responders, teachers and other middle class Americans that rent “workforce housing” during these uncertain times.

⁸ “Current Economic Issues,” speech of Jerome H. Powell At the Peterson Institute for International Economics, (May 13, 2020) (available at <https://www.federalreserve.gov/newsevents/speech/powell20200513a.htm>): “The loss of thousands of small- and medium-sized businesses across the country would destroy the life’s work and family legacy of many business and community leaders and limit the strength of the recovery when it comes. These businesses are a principal source of job creation—something we will sorely need as people seek to return to work.”

⁹ E.g., *Paycheck Protection Flexibility Act* (H.R. 7010). The “75-25 Rule” issued by the Small Business Administration and endorsed by the Treasury Department limits PPP loan and forgiveness amounts to no more than 25% for rent and other business expenses. H.R. 7010 would default instead to a “60-40 Rule,” marginally allowing a 15% increase for PPP loan forgiveness for rent and other non-payroll fixed expenses.

¹⁰ 15 U.S.C. § 636(a)(36)(E).

¹¹ Small Business Administration, “PPP Report” (approvals through 05/23/20) (slide 6), available at

<https://home.treasury.gov/system/files/136/SBA-Paycheck-Protection-Program-Loan-Report-Round2.pdf>

¹² *Emergency Rental Assistance and Rental Market Stabilization Act*, Div. K, Title II of HEROES Act (H.R. 6800).

¹³ Emergency Solutions Grant Program, information available at: <https://www.hudexchange.info/programs/esg/>.

Rent income supports an “obligation chain” that links critical sectors of the economy.

The Roundtable encourages Congress to design a specific program that helps households and businesses rebound by lessening the burden of rent obligations that are now piling up on them. Temporary government assistance for qualifying tenants will positively ripple throughout the economy by stabilizing a rental income stream that is the source for an “obligation chain” linking markets for jobs, state and local government services, and investors in mortgages and retirement savings:



- Tenants’ rent payments go “up” the obligation chain to provide property owners with revenue to **pay the 3.4 million U.S. workers directly employed in the real estate sector.**¹⁴ These include workers across all skill levels that construct, clean, protect, landscape, maintain, and repair buildings. Rental income also supports **35 million more indirect jobs** accounted for by the salesforce at “brick and mortar” stores; companies that lease space in office buildings; doctors, nurses, and supporting staff at senior care facilities; employees at hotels, warehouses, and tourism properties; and workers on assembly lines that manufacture products for building construction and improvements.¹⁵
- Rent payments go further “up” the obligation chain to provide building owners with revenue to honor their own debt obligations to **pay principal and interest that supports the \$3.2 trillion-plus commercial and multifamily mortgage market.** Tenants’ rents provide building owners with the revenue they need to pay commercial banks, life insurance companies, government-sponsored enterprises (Fannie Mae and Freddie Mac), holders of securitized loans, and other investor groups that extend commercial mortgage debt to support profitable, functioning real estate assets.¹⁶
- Business rent payments go further “up” the obligation chain as the revenue building owners use to pay **\$509 billion each year in property taxes that state and local governments need to spend on essential community services.** Property taxes are the largest source of local government revenue according to the U.S. Census of Governments.¹⁷ Rents from *business and multifamily* tenants are especially critical as their buildings are subject to higher tax rates than homes in the great majority of states. According to one study, an average commercial property pays 1.724 times *more* in taxes compared to taxes associated with a home.¹⁸

¹⁴ February 2020 data of the Bureau of Labor Statistics for NAICS 236 (“Construction of Buildings”) and NAICS 531 (“Real Estate”), available at: https://www.bls.gov/iag/tgs/iag_index_naics.htm

¹⁵ *Id.*, aggregate of February 2020 BLS jobs statistics for certain manufacturing (NAICS 321, 332), physical retail locations (NAICS 441-448, 451-453), warehousing (NAICS 493), professional services (NAICS 54), care facilities (NAICS 623), tourism properties (NAICS 713), accommodations (NAICS 721), and restaurants (NAICS 722).

¹⁶ See <https://www.mba.org/2020-press-releases/march/commercial/multifamily-mortgage-debt-grows-in-the-fourth-quarter-of-2019>

¹⁷ <https://www.census.gov/data/datasets/2017/econ/local/public-use-datasets.html>

¹⁸ <https://files.taxfoundation.org/legacy/docs/ff342.pdf>

- Business rent payments go further “up” the obligation chain to the investment community **driving the value of commercial building assets in which billions of dollars of pension funds, 401Ks, and other retirement savings are invested.** Real estate is a principal component of most pension fund portfolios, with 87% of all public and 73% of all private sector pension funds currently investing in buildings that depend on rent revenues for income.¹⁹ According to one estimate, nearly \$800 billion is invested in real estate globally.²⁰
- In the event that a business tenant files under chapter 7 or 11 bankruptcy laws, at best “pennies on the dollar” would remain to satisfy outstanding lease obligations because landlords will rank as unsecured creditors in the order of priority of who gets paid before whom.²¹ **Lost streams of rental income that disappear as a result of bankruptcy filings will weaken the links in the obligation chain as U.S. workers, state and local governments, and retirement investors all rely on this disappearing revenue.**

Congress should strengthen the “obligation chain” with a robust rental assistance program specifically designed to help business and residential tenants through the current crisis.

Congress has the opportunity to “re-couple” the rent obligation chain. It should design a targeted program for the specific purpose to help residential and business tenants pay their rent – and thereby help shore-up state and local property tax revenues, secure livelihoods of millions of workers, maintain proper functioning in mortgage markets, and safeguard Americans’ pension and retirement savings.

Assistance for business tenants: Suggestions that may guide a temporary program to help business tenants are:

- Only business tenants that certify and document negative economic impact from Covid-19 (*e.g.*, shuttered by government order) should be eligible for assistance.
- Rental assistance should go directly to business tenants, through an IRS delivery system that identifies qualified applicants by tax ID numbers.
- Taxpayers should be protected by capping the amount of allowable rent assistance, and requiring that both tenants and owners have “skin in the game” to bear program risks. For example:
 - Generally, qualified business tenants remain obligated to pay 25% of rent payments.
 - Business landlords that accept tenant-assisted payments forgive 25% of rent obligations.
 - Federal support capped at not more than 50% of fair market business rents – perhaps at a 120% “Area Median Rent” standard, similar to the residential rental assistance proposal offered in the *HEROES Act*.²²
 - For businesses located in economically distressed geographies that will have an even harder time recovering from the pandemic, higher levels of support should be considered – such as

¹⁹ <https://docs.preqin.com/newsletters/re/Preqin-RESL-September-16-Pension-Funds-Investing-in-Real-Estate.pdf>.

²⁰ Nareit, “The Role of Real Estate in Pension Funds” (August 7, 2019).

²¹ “How Bankruptcy Courts Are Hurting Landlords,” Globe St.com (June 1, 2020).

²² *Emergency Rental Assistance and Rental Market Stabilization Act*, included in *HEROES Act* (p. 939, line 1), *supra* note 12 (maximum of amount of residential rent assistance the greater of 120% of “Fair Market Rent” of a Metropolitan Statistical Area or a higher amount as determined by the HUD Secretary).

75% emergency assistance for enterprises in struggling communities with low median incomes.

- Qualified tenants should receive protection from any credit rating downgrades if they participate in the program.

Assistance for residential tenants: With reference to the *Emergency Rental Assistance and Rental Market Stabilization Act*,²³ we recommend the following to bolster the proposal:

- Qualifying tenants should be required to make some showing of economic harm as a result of COVID-19 (e.g., lost job, reduction in income).
- Partial rent payments should be encouraged as much as practicable. The program should be structured so that federal support is available to pay the rent increment that a qualifying residential tenant is unable to pay.
- Qualifying tenants that already receive some means of rental assistance through an existing program (such as Section 8 housing choice vouchers) should not also receive support through a temporary emergency rent assistance program. Limited resources should be economized so as much assistance as possible can be made available to renter households.
- Income targeting restrictions should be expanded so that more middle class households renting units geared to “workforce housing” income levels can receive assistance during the Covid-19 economic crisis.

* * *

The Real Estate Roundtable appreciates the opportunity to provide information to make the case for Congress to develop a solution that specifically enables residential and business tenants with their ordinary rent obligations. Our aim is to assist bipartisan collaboration on this critical subject, which should be a linchpin in any further Covid-19 response package that looks to jumpstart and sustain the economy’s recovery during the ongoing pandemic.

Sincerely,



Jeffrey D. DeBoer
President and Chief Executive Officer

Cc: Members of the U.S. House of Representatives Committee on Financial Services

²³ *Id.*

**BACK-UP CITATIONS
SUPPORTING THE CASE FOR
A RENTAL ASSISTANCE PROGRAM**

- (a) The recent widespread decline of rental revenues are described in reports cited here.²⁴
- (b) Government shutdown and “work-from-home” orders have caused drastic reductions in rent collections from business tenants:²⁵
- (1) “As of April 17, 2020, approximately 50% of retail tenants had paid their April rent, compared with the 85% who had paid their March rent, according to data from real estate business intelligence company Datex Property Solutions.”
 - (2) “According to CoStar Risk Analytics, the commercial real estate market can expect to see borrowers default on more than 13,000 loans totaling \$148 billion in value.”
 - (3) “[A]ccording to Green Street Advisors, about 50 percent of the 1,000 department stores in U.S. malls are vulnerable to permanent closure by the end of 2021. If struggling department store anchors go out of business as a result of the COVID-19 pandemic, other troubled tenants at those shopping centers likely will activate lease clauses to shutter their stores, as well.”

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- “The next big problem for the Economy: Businesses can’t pay their rent,” [*Washington Post* \(June 4, 2020\)](#) (“The problem for the broader U.S. economy is that when businesses ... stop paying rent, it sets off an alarming chain reaction. Landlords are now at risk of bankruptcy, too ...”);
- “Commercial Rent Payments Plummet,” [*New York Times* \(May 21, 2020\)](#) (“drop in commercial rent payments could imperil property tax collections that pay for city services”);
- “Fixed Rent Payments Could Be the Latest Pandemic Victim,” [*Wall Street Journal* \(May 5, 2020\)](#) (“Companies’ revenues can plummet from one month to the next, but their rent obligations typically remain constant, putting many firms in danger of default or even insolvency”);
- “Virus Impact on One Landlord: 80% of Retail Tenants Missed Rent,” [*Baltimore Sun* \(May 22, 2020\)](#); (“Residential rent collections have also declined, as tenants who lost jobs have stopped paying. But the erosion of commercial rents, so far, is worse and has stripped landlords of their largest source of income every month, especially for smaller property owners, and has started to jeopardize the health of their own businesses”);
- “This First-Time Homebuyer Needs Rent to Keep His House. But His Tenants Are Broke,” [*FiveThirtyEight* \(May 18, 2020\)](#) (“half the rental properties in the U.S. belong to landlords who own no more than 10 properties, and many of those 8 million individual landlords rely on the nominal rent they collect”);
- “Many Businesses Wrestle with Rent Payments as Some Property Owners Work to Cut Deals During the Pandemic,” [*Richmond Times-Dispatch* \(May 1, 2020\)](#) (“When businesses closed in March and through April, the money to cover expenses like rent vanished. That’s left businesses, particularly those in the hard-hit retail sector, asking their landlord to give them a break on their rent until they can see revenue return.”);
- “What Happens When Retailers Stop Paying Rent,” [*Marketplace* \(April 6, 2020\)](#) (“dominoes fall” when businesses do not pay rent as mortgages are unpaid and “[t]he banks take a financial hit. And so do investors, like pension funds, that put money into mortgage-backed securities.”)

²⁵ See David C. Ling, *et al.*, Department of Finance, Insurance, & Real Estate, University of Florida, “A First Look at the Impact of COVID19 on Commercial Real Estate Prices: Asset Level Evidence” (May 4, 2020), (available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3593101).

- (4) “[T]echnology, self-storage, and industrial warehouse REITs produced positive risk-adjusted returns during the early stages of the pandemic. The worst performers were hospitality and retail REITs due to canceled travel, imposed closures, and shelter-in-place orders in most cities and states.”
 - (5) Deutsche Bank (DB) Global Research reports that more than 20% of U.S. small businesses on average missed scheduled payments (rent, utilities, and payroll) since March 13, 2020. DB further reports that small businesses reporting missed rents and other fixed payments – worse than this U.S. average –are:
 - (A) in the “Accommodations and Food Services” sector (60% of small businesses missing payments);
 - (B) assisted living and similar facilities in the “Health Care and Social Assistance” sector (about 30%); and
 - (C) tourism properties in the “Arts, Entertainment and Recreation” sector (about 30%).²⁶
- (c) The ability of a commercial real estate company to honor its debt obligations depends, in significant part, on the company’s ability to generate operating income from the rents received from its business tenants. The severely depressed state of business rent collections since the start of the pandemic is a foreboding sign of declines in commercial real estate asset values, and associated credit losses that U.S. financial institutions may incur in their commercial real estate portfolios.
- (1) On May 15, 2020, The Federal Reserve issued a stark warning in its bi-annual “Financial Stability Report”²⁷ that asset prices could suffer significant declines should the coronavirus pandemic deepen – with the commercial real estate market being among the hardest-hit industries.²⁸
 - (A) “Asset prices remain vulnerable to significant price declines should the pandemic take an unexpected course,” the Fed said in the report.
 - (B) It cited commercial real estate as being particularly susceptible to falling valuations because “prices were high relative to fundamentals before the pandemic,” and there have been severe disruptions in rental income streams, particularly in the hospitality and retail industries.
 - (2) Moody’s Analytics dissected the credit risk impact on financial institutions’ commercial real estate loan portfolios under alternative “pandemic-control” scenarios. In March 2020, Moody’s predicted that if the U.S. enters another deep recession similar to the

²⁶ Torsten Slok, Chief Economist, Deutsche Bank Global Research, “The impact of Covid-19 on US small businesses: Slowly coming back,” at slide 17 (data collected April 26 to May 2, 2020) (available upon request)

²⁷ <https://www.federalreserve.gov/publications/files/financial-stability-report-20200515.pdf>

²⁸ <https://www.bloomberg.com/news/articles/2020-05-15/fed-warns-of-significant-hit-to-asset-prices-if-pandemic-grows>

2008-2009 financial crisis, credit losses would be in the order of 5.4% over a two-year horizon. These losses skirt the levels that the Federal Reserve and the Office of the Comptroller of the Currency use in their latest “stress test” capital reserve planning methods, to evaluate how large banks might perform during a severe recession. (The Fed and OCC assume 6.1% cumulative nine-quarter losses in the event of a “severely adverse” global recession.)²⁹

- (3) According to Trepp, a leading provider of information analytics and technology for structured finance, commercial real estate, and banking markets, the total value of approximately 7,600 active commercial real estate loans held by life insurance companies dropped by \$3 billion in just three months for the first quarter of 2020. Trepp attributes this steep decrease in pricing as being primarily driven by increased credit risks in the commercial mortgage market caused by the spread of the Covid-19 pandemic.³⁰
- (4) Citi Research reports that 46,694 properties with CMBS debt have an outstanding balance of \$573.4 billion. Since the start of the pandemic, 2,614 properties have missed payments, which aggregates to \$37.2 billion (6.5%).³¹

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²⁹ <https://www.moodyanalytics.com/-/media/article/2020/covid19-credit-risk-impact-cre.pdf>

³⁰ <https://info.trepp.com/hubfs/LifeComps%20Q1%202020%20Returns%20Report.pdf>

³¹ Data provided by Citi Research at the request of The Real Estate Roundtable (May 20, 2020) (available on request).