



To: Co-Chair Kotek, Co-Chair Courtney and Members of the Joint Interim Committee
On The First Special Session of 2020

From: Nellie deVries
Building Owners & Managers Association of Oregon

Date: June 22, 2020

Re: Please Amend LC 45 to Provide Commercial Property Owners with Debt Service

The Building Owners and Managers Association (BOMA) Oregon represents over 54 million square feet of commercial real estate in Oregon and Southwest Washington. As the leading commercial real estate association in Oregon, BOMA represents one of the largest industries in Oregon - Commercial Real Estate.

BOMA appreciates the time and thought that has been put into LC 45 to help Oregonians who are struggling during the Covid-19 pandemic. Thank you for your thoughtfulness during these uncharted times.

BOMA has concerns about the proposal regarding commercial evictions. As written, LC 45 extends the non-payment eviction moratorium for 90 days after the expiration of the Governor's emergency declaration, including any extension to it, for both residential and commercial leases. However, we understand the loan foreclosure moratorium applies to only residential property loans. So commercial property owners could be faced with no remedy to enforce rent payment from their tenants, but also no relief from debt service obligations owed to lenders. We ask that if the state forbids rent defaults for commercial property, that property owners receive protection from mortgage default.

May we suggest defense to eviction should be:

- 1) upon request, not automatic;
- 2) based on actual inability to pay;
- 3) time-limited;
- 4) limited to properties occupied; and
- 5) limited to property currently used as a primary residence.



Please also note that we have consulted with legal counsel, and we believe that, if the proposed legislation is passed substantially in its current form, it is likely to be immediately challenged and likely tied up in the courts, as the bill would impermissibly interfere with vested private contract rights, and would constitute an unlawful and unconstitutional taking of property rights from commercial property owners without just compensation or due process. In essence, this bill would place a disproportionate and unfair burden of the pandemic's severe economic impact on commercial property owners, without basis or reasonable justification. If the legislature insists on proceeding with this bill in its current form, then it should, at a minimum, extend the foreclosure moratorium to apply to commercial loans as well, so that commercial property owners are not faced with the prospect of losing their properties because they are unable to generate rental income needed to pay debt service.

Thank you for your consideration.