



COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION

OREGON CHAPTER

June 22, 2020

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

NAIOP, the Commercial Real Estate Development Association, is one of the leading organizations for developers, investors, owners & operators, brokers, and related professionals in office, industrial and mixed-use real estate throughout the United States, Canada, and Mexico. The Oregon Chapter's members represent a broad and diverse range of companies involved with commercial real estate activities in the Portland metropolitan area, including developers, owners, brokers, and managers, along with other professionals providing legal, finance, title, engineering, architectural, construction, and other services.

NAIOP Oregon joins with other business organizations to express strong concerns regarding LC 45's proposals for 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 the double impact of no remedy to enforce rent payment from their tenants, and 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.

We recommend 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 disagree with LC 45's finding that "effects of the provisions of this section are not substantial because the provisions have a limited scope and duration and are necessary to protect the public health, safety and welfare" and that "for these reasons the provisions do not undermine a contractual bargain, interfere with a party's reasonable expectations or prevent a party from safeguarding or reinstating the party's rights."

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Kelly Ross

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Quite to the contrary, we believe strongly that the proposed legislation 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 of our input and for all your work to help Oregonians in these challenging times.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kelly Ross", with a long horizontal stroke extending to the right.

Kelly Ross, Executive Director