

# HELPING OPEN PROPERTIES ENDEAVOR ACT

## CONGRESSMAN VAN TAYLOR | CONGRESSMAN AL LAWSON

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As a result of the COVID-19 pandemic, businesses of all types and sizes have experienced revenue declines and cash flow problems, making it difficult to meet monthly debt obligations and ultimately, threatening the livelihood of their business. While Congress and federal agencies have provided critical assistance to many businesses experiencing financial hardship through programs such as the Paycheck Protection Program and Main Street Lending Programs, these initiatives do not fit the needs of the commercial real estate (CRE) market, including the commercial mortgage-backed securities (CMBS) market.

The commercial real estate market encompasses hotel, retail, multi-family housing including senior and student housing, industrial, and commercial property, industries which support millions of jobs throughout the United States. For example, the hotel industry supports more than 8 million U.S. jobs while the retail industry directly supports 29 million American jobs.

Businesses with CMBS debt have a particular challenge in that their loan covenants are governed by multiparty contracts which typically prohibit additional indebtedness. Further, because bondholders of CMBS trusts expect timely principal and interest payments, servicers have little flexibility to modify loans. If this \$550 billion market is left without assistance, we will witness a historic wave of foreclosures, permanently destroying millions of American jobs.

COVID-19 has caused the CMBS market to accelerate towards delinquency at a much quicker rate than the 2008 financial crisis. As of June 2020, the overall CMBS delinquency rate already hit 10.3%, up from May's 7.15%, according to Trepp, the leading provider of commercial mortgage data. The all-time high for CMBS delinquencies stood at 10.34% in July 2012.

What took years to progress towards historical delinquency rates, took three months to pass all-time high records. Some of the hardest-hit industries, such as lodging and retail, have already reached historic delinquency rates of 24.3% and 18.1% respectively. Foreclosed properties destroy jobs, impact local tax revenues, and hurt communities.

To prevent foreclosures and protect millions of jobs across the nation, bipartisan legislation introduced by Congressman Van Taylor (R-TX-03) and Congressman Lawson (D-FL-05), the *Helping Open Properties Endeavor (HOPE) Act* establishes a lending facility to help these industries who were in good standing before this unforeseen crisis and through no fault of their own saw a significant drop in revenue due to the pandemic. These industries don't need a bailout, they need temporary liquidity to keep their doors open.



# THE HOPE ACT

## FREQUENTLY ASKED QUESTIONS

### **What does the *HOPE Act* do?**

The HOPE Act provides borrowers of commercial mortgages, who have been hit the hardest economically by COVID-19, financial assistance through the HOPE Preferred Equity lending facility. Guaranteed by the Department of the Treasury, financial institutions will originate preferred equity instruments to borrowers.

### **Why does the lending facility offer preferred equity?**

Many of these borrowers have commercial mortgages whose loan covenants typically prohibit taking on additional debt. By providing preferred equity, these borrowers can get relief without violating their loan covenants.

### **Who is eligible?**

- Borrowers who have experienced at least a 25 percent drop in revenue during any consecutive three-month period between March 1, 2020 and February 28, 2021 as compared to the same period last year
- Borrowers who were not in monetary default as of March 1, 2020
- Borrowers who had a debt service coverage ratio of at least 1.3 times on an annual basis in 2019 or at least 1.3 times DSCR on an annual basis in 2017 and 2018
- The property cannot be owner-occupied

### **What are the terms of the preferred equity instrument?**

- Borrowers have one year to draw down the amount
- The instrument shall be unsecured and provides no right of foreclosure
- The instrument prohibits voting rights
- The instrument has a 3.5 percent interest rate
- Borrowers may prepay at any time without penalty
- Borrowers should begin payment within two years of draw down
- The instrument should amortize over a 7 year period beginning on the date of first payment
- The instrument must be redeemed if there is more than a 50 percent change in ownership

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# THE HOPE ACT

## FREQUENTLY ASKED QUESTIONS

### **How much are borrower's eligible for?**

Borrower's may qualify for 10 percent of the outstanding debt owed on the commercial mortgage.

### **What can the preferred equity be used for?**

- The instrument may only be used for the benefit of the property and the preferred equity interest such as principal, interest, insurance, taxes, utilities, fees, operating expenses, and payroll expenses
- Until the instrument is redeemed, the borrower may not pay any dividends or take out any money from the property

### **What happens if a borrower fails to make payments?**

- Each year the borrower fails to make payments the interest rate will increase by 1 percent for the remainder of the loan for the maximum interest rate of 13 percent
- Any interest owed above 2.5 percent will go to the Department of the Treasury

### **What payments will be provided to financial institutions that participate?**

Financial institutions will receive origination fees from Treasury based on the same criteria set forth by the Paycheck Protection Program:

- 5 percent for amounts \$350,000 or less;
- 3 percent for amounts of more than \$350,000 and less than \$2 million; and
- 1 percent for amounts not less than \$2 million.

If a borrower defaults on the entire amount, the financial institution must repay any origination fee back to the Department of the Treasury.

### **Does the bill appropriate new funding for the HOPE lending facility?**

No, the HOPE lending facility utilizes funds from the \$454 billion allocated to the Economic Stabilization Fund as part of the *CARES Act*.

*For more information on the HOPE Act, contact Rep. Taylor's office at (202) 225-4201.*

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