

COVID-19: District of Columbia Emergency Legislation Providing for Payment Plan Application Process and Rental Increase Restrictions Under Retail Leases

15 May 2020

Mitchell B. Weitzman

On May 13, 2020, the “Coronavirus Omnibus Emergency Amendment Act of 2020” was approved by District of Columbia Mayor Muriel Bowser which imposed new requirements upon landlords and tenants under residential and commercial retail leases, as well as touching upon many other areas of District of Columbia law including, but not limited to, alcohol beverage regulation, cooperative association remote meetings, building amenity fees, third party food delivery commissions, and credit reporting. This posting focuses on retail lease requirements that may be surprising to retail landlords and tenants.

Section 8 of the Act prescribes in detail rental payment plans to be made available to “eligible tenants.” That status requires, among other things, that a tenant demonstrate financial hardship resulting directly or indirectly from the public health emergency. Section 8 sets forth in detail the application process, requires landlords to notify tenants of the availability, terms and application process with respect to this program, and contains governmental reporting requirements. Section 8 prescribes payment limitations and requires landlords to make the application process available online and by telephone. Section 8 shall be “in effect during a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Emergency Act of 1980... and for one year thereafter” in connection with the current pandemic. This Act follows earlier emergency legislation still in effect, that requires all commercial (not confined to retail) and residential landlords who obtained deferrals under their mortgages to grant tenants proportionate deferrals, with tenant repayment allowed with no interest over an 18 month period or earlier upon expiration of the lease term (see Section 202(g) of the COVID-19 Response Supplemental Emergency Amendment Act of 2020”). Landlords are advised to review all provisions of these emergency laws to ensure compliance.

Section 9 of the Act clarifies that rental increase prohibitions imposed by prior emergency legislation are confined to commercial “retail” leases. Section 10 of the Act prohibits the filing of landlord-tenant suits “during a period of time for which the Mayor has declared a public health emergency... and for 60 days thereafter.” This prohibition is quite broad and differs from the approach taken in Maryland and Virginia, which permit new filings but have extended hearing dates. Finally, Section 29 of the Act provides that it shall “apply as of March 11, 2020,” so is retroactive to that date.

This summary is not intended to contain legal advice or to be an exhaustive review. If you have any questions regarding this article, please contact [Mitchell Weitzman](#) at Jackson & Campbell, P.C.

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Rental Increase Restrictions Under Retail Leases

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