

The National Association of REALTORS®

NAR's Coronavirus Advocacy FAQs

April 16, 2020

NAR's Federal Advocacy team has been working closely with Congress and the Administration to ensure the interests of REALTORS® and their clients are protected in any federal action in response to COVID-19, in addition to minimizing transaction disruptions during these very difficult circumstances. As the actions out of Washington evolve daily, below are a number of Q&As to address the ongoing fixes being proposed and implemented in response to the pandemic.

Congress has now passed three stimulus/relief packages dealing with COVID-19. We have incorporated the provisions of those bills into this document. The Administration is providing more relief by the day. We will update this document as events warrant.

Contents

REALTOR® Business Operations	1
Homeowner/Buyer Questions	7
Commercial Owner Questions	8
Independent Contractors	11
Association Matters	14

REALTOR® Business Operations

- **What is NAR doing to help State REALTOR® Associations lobby to ensure real estate services are considered “essential” when/if their areas are under a “Stay at home” order?**

The Federal Cybersecurity and Infrastructure Security Agency (CISA) provides a “List of Essential Critical Infrastructure Workers” as a guide to states and cities to use when they release emergency orders about “essential” and “non-essential” workers in efforts to prevent the spread of COVID-19. This was recently updated to include “residential and commercial real estate and settlement services.” While Governors still have the flexibility to determine “essential businesses” in their respective states, it helps to have the federal government recognize the importance of the real estate industry to our economy. State REALTOR® associations can use the CISA list to advocate that real estate brokers and agents be given the ability to continue to work while following safety precautions to prevent the spread of the illness.

Since State Executive Orders are being added daily and often amended just as frequently, NAR recommends checking with your state association on the current status of essential services designation in your state. Similarly, local governments may be able to impose additional restrictions, particularly in states without statewide orders, so it is also recommended that REALTORS® operating during COVID-19, touch base with their local association regularly to learn more about any potential county, city, town or village restrictions.



April 16, 2020

- **Can I use a remote notary to make my closing happen?**

A number of states allow for remote notary at this time. Find a list [here](#). NAR is supporting legislation to allow remote notary nationwide. We are pushing for the Remote Online Notary (RON) legislation to be included in any of the disaster relief bills. Find information on that bill [here](#). HUD has also supported the use of remote notaries on FHA transactions. Some states are also issuing Executive Orders to implement remote notary policy. You can find a list of states with Executive Orders [here](#).

- **What is NAR doing to protect/assist landlords and property managers in places where there are moratoriums on evictions and foreclosures?**

The Federal Housing Finance Agency (FHFA) has announced that Fannie Mae and Freddie Mac (the Enterprises) will offer multifamily property owners mortgage forbearance with the condition that they suspend all evictions for renters unable to pay rent due to the impact of coronavirus.

The [CARES Act](#) allows multifamily owners who were current on their mortgage payments as of February 1, 2020, and have federally insured, assisted, or supplemented loans (Fannie Mae, Freddie Mac, FHA or any loans backed or assisted by any branch of the federal government, including LIHTC) to request forbearance for 30 days due to financial hardship, with extensions of up to a total of 90 days. Borrowers receiving the forbearance may not evict or charge late fees to tenants for the duration of the forbearance period. NAR [is working](#) to see that housing providers who do NOT have federal loans, also receive relief.

In addition, housing providers may be eligible from some of the SBA programs, see below. There is also tax relief provided for businesses, that multifamily housing owners may be eligible for. Section 2303 of the CARES Act allows businesses to carry back net operating losses from 2018, 2019 or 2020 against profitable years, up to five years, and get immediate refunds. The current taxable income limitation is also temporarily removed to allow an NOL to fully offset income. Check with your accountant to see if you would be eligible.

- **My county courthouse is closed, how do I file deed and title?**

Here is a [link](#) to a real-time database of offices that are closing or reducing operations as a result of the coronavirus.

- **Are REALTORS®, including independent contractors, eligible for unemployment?**

Yes. Real estate professionals will be eligible to apply for unemployment benefits, under the new "Pandemic Unemployment Assistance" temporary Federal-state program if they have been fully or partially unemployed due to an inability to work as



a result of the COVID-19 public health emergency. This includes self-employed individuals and independent contractors. The CARES Act provides an additional \$600 per week (for up to four months) on top of the amount provided under a state's compensation law through December 31, 2020.

Typically, states base compensation amounts on an individual's wages from their most recent tax year, and net income from all self-employment that was reported on an individual's tax return. However, if an individual is eligible to telework with pay, or has paid sick leave or expanded family and medical leave, they are not eligible for unemployment assistance.

These new benefits will be carried out through agreements between each state and the federal government, where states will be fully reimbursed for the compensation paid out, plus administrative costs. Therefore, individuals should check with their state labor department or employment commission to determine their options for unemployment.

For individual state and local labor services, including claims filing, see [here](#).

We have more information on unemployment benefits [here](#).

- **Real estate services have been deemed “essential” in my state, does that mean I'm ineligible for the new unemployment benefits for self-employed?**

No. Even if a state deems real estate as an essential service, it does not necessarily mean that an individual is “working” and receiving compensation. For this purpose, whether an industry is “essential” is not relevant to the individual's eligibility. Individuals are encouraged to apply for unemployment if they have been fully or partially unemployed due to an inability to work, as a result of the COVID-19 public health emergency. Individuals should check with their state labor department or employment commission to determine eligibility and claims filing, found [here](#). As guidance is issued from the Department of Labor on this question, updates will be provided

- **Are there other sources of money for individuals?**

The CARES Act provides resources for REALTORS®, their families, and their clients, as well as most Americans, with incomes below certain thresholds in the form of cash payments of \$1,200 per adult plus \$500 for each child under the age of 17. These payments should be sent out starting in April, based on your 2018 or 2019 filing, whichever is more recent. More information can be found [here](#). IRS has [a portal](#) to track your cash payment.

REALTORS® with retirement accounts, including IRAs, can take early withdrawals of up to \$100,000 from those accounts without having to pay the 10% early-withdrawal penalty. Those who withdraw such funds can recontribute them to the plan over three years or can keep the money and pay the tax on the withdrawals over a three-year period.



April 16, 2020

See below for information about how access to small business loans.

- **I got a call from the IRS asking for my bank account number to deposit my check – is this legit?**

NO! The government will never call you to ask for your social security number or bank account information. These are SCAMS – do not give out personally identifiable information on the phone. The Federal Trade Commission has [posted information](#) about the most recent coronavirus scams.

- **Can real estate brokerages access the small business loans?**

Yes. Real estate brokerages that employ 500 or fewer people are eligible for SBA loans. Sole proprietors, independent contractors and the self-employed also qualify.

For more information on small business loans, see our separate [SBA FAQ](#).

- **Should a broker include their agents in their request for a payroll protection plan loan from SBA? Or should agents apply for pandemic unemployment themselves?**

No. Because independent contractors can apply for their own loans under the program, they should *not* be included in the payroll or employee count calculations of other businesses. Beginning April 3, small businesses and sole proprietorships can apply for SBA 7(a) PPP loans with an approved SBA lender.

- **The commercial real estate sector includes industries that are particularly vulnerable to the economic threat this poses - restaurants, retail, and offices that will be forced to close for the duration of the crisis and may be unable to reopen. What is NAR doing to address this?**

The CARES Act includes provisions to allow businesses to offset tax losses. The bill allows businesses to carry back net operating losses from 2018, 2019 or 2020 against profitable years, up to five years, and get immediate refunds. The current taxable income limitation is also temporarily removed to allow an NOL to fully offset income.

- **In my area, appraisers have stopped appraising; Now what?**

We have been working with the federal agencies (HUD, FHFA, Freddie Mac, Fannie Mae) about appraisal issues during the crisis. [FHFA has directed](#) Fannie Mae and Freddie Mac to utilize appraisal alternatives to reduce the need for appraisers to conduct interior property inspections for eligible mortgages through May 17, 2020.

[Fannie Mae](#) and [Freddie Mac](#) have provided detailed appraisal alternative guidance, including directions on using desktop appraisals and exterior-inspection only appraisals with specific language that appraisers are to use in their reports

FHA is also [allowing desktop](#) and exterior only appraisals, as well as [VA](#) with enhanced assignment conditions or in limited instances, a Desktop appraisal to



April 16, 2020

complete the VA loan requirements in light of the COVID 19 crisis. The [Rural Housing Service](#) of the USDA is also allowing exterior-only appraisals.

In addition, the OCC, Federal Reserve, and FDIC are allowing appraisals and evaluation to be delayed for 120 days post-closing in commercial and residential transactions.

- **If the appraiser is unable to enter the property, how are they getting reliable information to create a value opinion?**

[Fannie Mae](#) and Freddie Mac have told appraisers they may rely on MLS data. NAR worked with both entities to ensure the language allowing reliance on the MLS was clear and sound.

- **I'm not sure I will be able to pay or file my taxes on time for 2019; What do I do?**

The IRS has delayed the due date to file and pay any taxes that are due to July 15, 2020, without penalties or interest. For more IRS information, check [here](#).

- **I am an independent contractor who makes estimated tax payments on a quarterly basis. I understand that IRS has extended the first quarter estimated payment until July 15, but I am worried about the second quarter payment that is still due on June 15. Why didn't IRS also extend that due date? It seems bizarre that the second quarterly payment would be due before the first one. Can this be changed?**

The Internal Revenue Service released a notice on April 9 extended the deadline the second quarterly estimated tax payment to July 15, 2020. Thus, both the first and second quarterly estimated tax payments are due on July 15.

- **As an employer, is there any assistance available to help me retain my employees?**

So you have several options. You can apply for an SBA loan (see above) to help cover your payroll costs, or you may be eligible for a refundable tax credit. The CARES Act provides eligible employers a refundable tax credit against payroll taxes for 50% of wages paid from March 13 through December 31, 2020 to certain employees. Up to \$10,000 in wages per employee (including health benefits) are subject to the credit, meaning the maximum credit is \$5,000 per employee. However, the credit cannot be higher than the employer's portion of Social Security taxes, reduced by any tax credits for paid sick leave or paid FMLA leave (which was enacted in earlier coronavirus legislation). Eligible employers are those carrying on a business that suffer a full or partial suspension of operations due to the coronavirus crisis or that experience a decline in quarterly gross receipts of more than 50% compared with the same period last year. For employers with 100 or fewer full-time employees, all employee wages are eligible for the credit, even if the employee has been furloughed or has hours reduced. For larger employers, wages eligible for the credit are those paid to employees when they are not working due to COVID-19-related



April 16, 2020

circumstances. Employers receiving Small Business Interruption Loans are not eligible for the credit.

- **I can't pay my employees if I am not working; What can I do?**

The CARES Act created two new Small Business Administration (SBA) initiatives: the SBA 7(a) "Payroll Protection Program" and the SBA "Economic Injury Disaster Loan" (EIDL) grant program. Find more [here](#).

- **How do the interest rates being lowered impact us?**

On March 16-17 2020, NAR conducted a flash survey of members on the impact of the coronavirus on their market. The survey was delivered to a random sample of 72,734 members. For 96% of respondents, the majority of their business is residential. For 2% of respondents, the majority of their business is commercial. 45% of members cited there was no notable change in client behavior regarding the stock market and mortgage rate change. There is a one to one ratio of members who cited the stock market correction significantly damaged confidence, to those who cited lower interest rates excited clients. The share of members who cited the stock market correction influenced clients more than doubled from March 9 to March 16. We will continue to update this survey and will provide results here.

- **Does my business interruption insurance cover pandemics?**

It depends on the specific terms and conditions of your insurance policy. While typical property insurance coverage forms require actual physical damage to property (buildings, equipment, etc.), some policies may have expanded coverage to include non-physical types of losses. Others might include provisions or endorsements specifically related to epidemics. If you have questions about what is covered or not in your policy, please call your insurance agent. Your state insurance commissioner may also be able to help answer questions. Click [here](#) and [here](#) for two recent legal articles on the subject.

- **How can the private sector help fight the coronavirus?**

FEMA is offering ways for the private sector to donate, volunteer or sell goods/supplies in the fight against the coronavirus pandemic. If you have medical supplies or equipment to donate, you can provide the details of what you are offering through an [online form](#). If you are interested in doing business with FEMA and supporting the response to COVID-19 with your company's non-medical goods and/or services, please email any inquiries to the Department of Homeland Security PAIR team at DHSIndustryLiaison@hq.dhs.gov. More information can be found [here](#).

- **Will there be a national lockdown and mandatory quarantine for 2 weeks?**

Not according to the Congressional Research Service. On March 13, President Trump did declare a [national emergency](#) under the [Stafford Disaster Relief and Emergency Assistance Act](#). However, the Stafford Act does not grant the power to quarantine the country, though it does provide considerable disaster relief funds, resources and



flexibility to state and local governments, which reserve the primary responsibility for controlling the spread of dangerous diseases under the U.S. Constitution. FEMA has developed a [website to fact check these and other rumors about the coronavirus response](#).

Homeowner/Buyer Questions

We have an FAQ just on mortgage/lending issues, you can find [here](#).

- **Does the moratorium on foreclosures cover everyone in the country?**

No, the HUD/FHFA moratorium only affects borrowers with mortgages backed by Fannie Mae, Freddie Mac, FHA, VA and RHS. This does not apply to the roughly 35% of mortgages held in bank portfolios and private label securities, but some lenders are offering relief. Homeowners can check if their loan is a Fannie Mae loan [here](#), and a Freddie Mac loan [here](#).

- **I have heard that the FHA, Fannie Mae, and Freddie Mac have raised rates and fees on borrowers with lower credit scores or smaller down payments?**

FHA, Fannie Mae and Freddie Mac have not made any changes to credit scoring or down payment requirements. The only change they have made for borrowers is to allow MORE flexibility in how a lender can verify employment.

Many individual lenders are adding their own, higher standards on these products. The rationale is that the cost of servicing these loans has surged due to the widespread forbearance that is taxing servicers' resources. Under forbearance, the servicer must continue to pay PITI to the investor, but the sheer volume of forbearance to deal with the COVID-19 response is unprecedented. Since lower-credit borrowers are more likely to take forbearance and servicing is harder to get, lenders are less willing to extend this credit regardless of the FHA or GSEs' standards.

Ginnie Mae will opening a lending facility for FHA servicers next week, so we hope that will alleviate some of this for FHA, VA, and RHS loans. We are encouraging FHFA to do the same for Fannie Mae and Freddie Mac.

- **I'm going to have a hard time making my student loan payments, as my job was put on hiatus during the crisis; What do I do?**

The [CARES Act](#) provides 6 months of forbearance on federal student loans. It also prohibits negative credit reporting or involuntary debt collection during forbearance period. The Department of Education has also [waived all interest](#) on student loans for this period. You must contact your loan servicer to get-a forbearance.

- **I need to renew my flood insurance, but not sure I can at this difficult time.**

FEMA is extending the grace period to renew flood insurance policies from 30 to 120 days. If a policy has an expiration date between February 13, 2020 and June 15, 2020, then the NFIP insurer must receive the appropriate renewal premium within 120 days of the expiration date to avoid a lapse in coverage. Likewise, if a policyholder receives



an underpayment notice dated between February 13, 2020, and June 15, 2020, then the NFIP insurer must receive the additional premium amount requested within 120 days of the date of the notice.

- **Should we be drinking the water? Is it safe?**

The Environmental Protection Agency (EPA) has [stated](#) that Americans can continue to use and drink water from their tap as usual. EPA has provided important information about COVID-19 as it relates to drinking water and wastewater to provide clarity to the public. The COVID-19 virus has not been detected in drinking-water supplies. Based on current evidence, the risk to water supplies is low.

- **I'm worried about my credit score. What should I do if I miss a few payments due to the crisis?**

The CARES Act implemented provisions to protect credit scores from January 30, 2020 through 120 days after enactment of the national emergency. If customers are making payments, or made arrangement to not make payments, customers must be reported as being current. If a customer was delinquent, but was able to make an arrangement with the servicer and is now current, then their account must be reported as current. The important thing is to reach out to your servicer, bank or credit card company if you are having trouble making your payments.

Commercial Property Questions

- **I am in the middle of a 1031 like-kind exchange, and now the town I am buying the replacement property in has shut down. I'm not going to make the 180-day deadline; What do I do?**

In response to NAR requests, the Treasury Department and Internal Revenue Service extended the deadlines for completing 1031 like-kind exchange transactions. If the 180-day deadline for closing on your replacement property falls between April 1 and July 14, 2020, you now have until July 15 to complete the purchase.

- **I am in the middle of a 1031 like-kind exchange, and I am not able to investigate possible replacement properties in time to meet the 45-day deadline because the owners do not want potential buyers on the premises; What do I do?**

In response to NAR requests, the Treasury Department and Internal Revenue Service extended the deadlines for completing 1031 like-kind exchange transactions. If the 45-day deadline for identifying possible replacement properties falls between April 1 and July 14, 2020, you now have until July 15 to complete the purchase.

- **I sold a capital asset and plan to roll over the gain into an Opportunity Fund so I can take advantage of the new Opportunity Zone tax incentives. However, I did not meet the 180-day deadline for making the investment due to the coronavirus crisis; What can I do?**



April 16, 2020

NAR has been asking the Treasury Department and the Internal Revenue Service to extend certain deadlines relating to the Opportunity Zone program to reflect the difficulties that investors are having with meeting the requirements on time. IRS responded with a new notice on April 9 that relaxes the 180-day rule. If your 180-day deadline falls between April 1 and July 14, you are now allowed to make your investment into the Opportunity Fund by July 15, 2020 and have it count as being made within 180 days of when you sold your capital asset.

- **I was in the middle on an eviction for failure to pay of a tenant in my single-family rental property. Now that all evictions are halted, how do I pay my mortgage?**

Your mortgage may be covered by the moratorium on foreclosure, which applies to all federal mortgage (FHA, Freddie Mac, Fannie Mae), but hopefully it won't get to that. You may also be eligible for mortgage forbearance. That means that your payments are frozen while under the forbearance period. You must contact your servicer to request forbearance, though. There are no fees and after the forbearance period you can request a modification to have the missed payments extended onto your payment term. NAR has worked with a [coalition of organizations](#) to lobby for security in all of the real estate waterfall. We are trying to ensure that when evictions are stopped for tenants, relief is provided for property owners.

- **What relief is provided for renters?**

Renters in properties that have a federal mortgage are entitled to a 120-day moratorium on eviction. Note that this does NOT eliminate the responsibility to pay. Renters should contact their property owner to develop a payment plan. At the end of the 120 days, all past rent will be due, if no other payment plan agreed to with their landlord.

- **So, my renters do not have to pay their rent?**

The eviction moratorium does not relieve renters from the responsibility to pay rent. The lease remains in place. That said, tenants cannot be evicted for failure to pay, or charged fees or interest on late payments during this time, if they are subject to the moratorium. They will be responsible for all rent payments at the end of the prohibition. You should be clear in explaining this to residents, and you will want to consider working with them on repayment plans now. Be mindful of fair housing laws, and ensure you are offering the same options to all residents.

- **What provisions apply to single-family rentals?**

Owners of single-family rentals are eligible for the same forbearance as homeowners, if they have some federally related loan (FHA, VA, RHS, Freddie Mac, Fannie Mae). These same owners are also required to halt evictions for 120 days.



April 16, 2020

- **If an owner of a small number of rental properties suffers a reduction of income due to the coronavirus, does he or she meet the definition of having “adverse financial consequences” to allow them to take a “coronavirus-related distribution” that qualifies for the tax-favored treatment?**

Until we get an official interpretation from Treasury and IRS as to what constitutes “adverse financial consequences” we will not know for sure. By its literal meaning, adverse financial consequences could arguably be even \$1 less in income due to tenants not paying rent due to the shutdown. However, it is possible that the regulations would not recognize the ownership of a small number of rental properties as meeting the definition of a business. We hope that the regulations will be liberal in their interpretation, but until they are released, we cannot say for sure.

- **Is there any other tax relief I am eligible for?**

Owners of commercial and multifamily rental real estate whose primary business is owning/managing that property may be eligible for a new provision in the CARES Act that allows businesses to carry back tax losses against earlier years when tax was paid. Specifically, the bill allows businesses to carry back net operating losses from 2018, 2019 or 2020 against profitable years, up to five years, and get immediate refunds. The current taxable income limitation is also temporarily removed to allow a net operating loss to fully offset income.

- **Are commercial and multifamily owners eligible for any other programs?**

Property owners may also be eligible for some of the programs offered by the Small Business Administration. A rental housing provider that qualifies as a small business and operates in a state with a Presidential declaration of disaster is eligible for SBA-sponsored Economic Injury Disaster Loans (EIDLs) and possibly also the Payroll Protection program. See the information in our [SBA FAQ](#).

NAR recognizes the impact mandated closures will have on businesses throughout the country, and how that will impact the commercial real estate market, as well as the landlords and property managers who work with those businesses. NAR is working with a coalition of other industry groups, including the International Council of Shopping Centers, the Real Estate Roundtable, the National Association of REITS, the National Restaurant Association and the National Apartment Association to advocate for a "[Federal Business Interruption and Workers' Protection Recovery Fund](#)." Funded by the federal government, it would create a pathway for businesses impacted by the crisis to get assistance and liquidity - regardless of if it was already covered by a business interruption insurance policy or not. NAR will continue to advocate for this and other holistic solutions to the crisis in relief measures considered by the federal government.

For a downloadable list of resources for Commercial REALTORS®, [click here](#).



Independent Contractors

- **Is there a resource for overall benefits for small businesses?**

The House Small Business Committee has put together [this guide](#). NAR has created an [SBA FAQ](#) with information for REALTORS®, as well as a guide on [Pandemic Unemployment](#).

- **Are independent contractors entitled to sick and/or family and medical paid leave?**

Self-employed individuals may be eligible for paid leave administered through refundable tax credits if they meet the qualifications under the FFCRA's Emergency Paid Sick Leave Act if they were: subject to a quarantine or isolation order; has been advised to self-quarantine; is experiencing symptoms; or, must care for an individual who is subject to an isolation order or who is a quarantined employee; or is on leave to care for a son or daughter if the school or place of care for the child has been closed or the child care provider of the child is unavailable, due to COVID-19 precautions.

Eligible self-employed individuals are able to claim a refundable tax credit equal to 100% of the qualified sick leave equivalent amount for those who must self-isolate, obtain a diagnosis, or comply with a self-isolation recommendation with respect to COVID-19. Eligible self-employed individuals caring for a family member or for a child whose school or place of care has been closed due to COVID-19 receive a credit equal to 67% of a qualified sick leave equivalent amount.

For more on the details of the paid leave options, see [NAR's Summary](#) and the [Department of Labor's guidance documents](#).

- **Are business owners required to offer paid sick and family and medical leave to employees?**

Under the FFCRA, businesses with fewer than 500 employees must offer paid sick leave and the new extended family and medical leave (FMLA expansion). For the new paid sick leave, full-time employees can receive up to 80 hours of sick leave, while part-time workers are eligible for leave based on their scheduled or normal work hours in a two-week period. The paid sick leave is calculated based on the employee's regular compensation but is capped at \$511 per day for employees subject to a quarantine or isolation order; has been advised to self-quarantine; is experiencing symptoms; and at \$200 per day if needing to care for an individual who is subject to an isolation order or who is a quarantined employee; or needing to care for a son or daughter if the school or place of care for the child has been closed or the child care provider of the child is unavailable, due to COVID-19 precautions. If an employer already offers paid sick leave, this emergency paid sick leave must be offered in addition to that. Employers with fewer than 500 employees must also offer an additional 10 weeks of paid expanded family and medical leave at two-thirds the employee's regular rate of pay where an employee is unable to work due to a bona



vide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

For more on the details of the paid leave, see [NAR's Summary](#) and the [Department of Labor's guidance documents](#).

- **Is there an exemption for small business owners required to offer paid leave to employees?**

An employer with fewer than 50 employees is exempt from providing (a) paid sick leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons and (b) expanded family and medical leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons when doing so would jeopardize the viability of the small business as a going concern. A small business may claim this exemption if an authorized officer of the business has determined that:

1. The provision of leave would result in the small business's expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity;
2. The absence of the employee or employees requesting leave would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities; *or*
3. There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee or employees requesting the leave, and these labor or services are needed for the small business to operate at a minimal capacity. ([29 C.F.R. §826.40\(b\)\(1\)](#)).

For reasons (1), (2), and (3), the employer may deny paid sick leave or expanded family and medical leave only to those otherwise eligible employees whose absence would cause the small employer's expenses and financial obligations to exceed available business revenue, pose a substantial risk, or prevent the small employer from operating at minimum capacity, respectively.

There is no application process to apply for this exemption, rather it is up to the employer to determine and retain the necessary information on eligibility. DOL published a [temporary rule](#) stating that an employer deciding to deny paid sick leave or expanded family and medical leave to an employee must document the facts and circumstances that meet the criteria as outlined in the three conditions above. If an employer denies an employee's request for leave pursuant to the small business exemption, the employer must document its authorized officer's determination that the prerequisite criteria for that exemption are satisfied and retain such documentation for four years. ([29 C.F.R. §826.40\(a\)](#).) There is no



April 16, 2020

specific formula used to determine the viability of a business as a going concern, rather an employer should consider conditions or events in the aggregate.

Regardless of whether a small employer chooses to exempt one or more employees, the employer is still required to post a notice in accordance with DOL guidelines found [here](#) (including a [model notice](#)). (29 C.F.R. §826.40(b)(3).) An employer may email or direct mail this notice to employees, or posting this notice on an employee information internal or external website.

- **Did Congress change health insurance laws to help those affected by the novel coronavirus?**

Yes. Congress and the Administration recently responded with a number of public policy changes to help bolster health insurance plans and ease requirements for more individuals to obtain testing, treatment and insurance. Here is [a link to a high-level overview of the recent changes, organized by source and type of coverage \(Employer, Medicare, Affordable Care Act\) including helpful links and resources on these benefits for NAR members.](#)

- **I heard I can get free coverage for hospital visits related to Covid-19?**

The Administration recently announced that hospitals may provide free COVID-19 treatment to uninsured individuals, and the Federal government will reimburse hospitals for the costs. Hospitals that accept the reimbursements are prohibited from sending you a medical bill for any amounts that exceed the treatment costs. Click [here](#) to learn more.

TAX CREDITS FOR SICK TIME AND FAMILY LEAVE

- **Does a REALTOR® need to itemize their deductions in order to qualify for the credits?**

The tax credits are available whether the tax filer itemizes deductions or not. If the REALTOR® is self-employed, the tax credit will reduce his or her income or self-employment taxes and also the quarterly estimated tax payments.

- **What if I have a limited liability company (LLC) or an S corporation?**

If an owner of an LLC has employees, they will have Social Security and withholding tax liabilities for the employer's share to pay over to the IRS. The tax credits can be used to reduce these payments, thus saving the employer cash within days or weeks. If the LLC has no employees, the answer is the same as in the question immediately above. For owners of S corporations who are also employees, the tax credits can be used to reduce tax payments due to the IRS, as with LLCs.

A full explanation of the new law related to sick leave and tax credits can be found [here](#).



The National Association of REALTORS®

NAR's Coronavirus Advocacy FAQs

April 16, 2020

Association Matters

- **Can our Association file for a SBA loan?**

The CARES act allows 501(c)(3)s to apply for the new SBA loans, but not 501(c)(6)s. We are aware of the oversight, are [working with other industry groups](#), specifically ASAE, to push for their inclusion in the Phase-4 relief package which we expect Congress to take up in the next few weeks. However, we believe 501(c)(6)s are eligible for the Employee Retention Credit tax provisions of the bill. Which allows a refundable tax credit against payroll taxes for 50% of wages paid to certain employees during the crisis.

- **Are NAR REALTOR® Party grants still available?**

Yes, all NAR's grant programs are still operating. Leverage a Housing Opportunity, Smart Growth and/or Fair Housing grant to position your association as a leader in your community by hosting an online or virtual event addressing affordable housing challenges, community planning and development issues, revitalization opportunities, and fair housing education. If you need more information, application deadlines, and/or clarification about whether the event meets grant criteria, contact Wendy Penn at WPenn@NAR.REALTOR for Housing Opportunity or Hugh Morris at HMorris@NAR.REALTOR for Smart Growth and Fair Housing.

Associations may be able to apply REALTOR® Party Conference grant funds to their virtual meetings & events. To inquire and apply, please contact Vanessa Lopez at VLopez@NAR.REALTOR.

REALTOR® Party Leaders available for virtual meetings and events: Beginning April 1, members of the 2020 REALTOR® Party Travel Team are available to “dial-in” and speak to your group if your association is hosting a virtual meeting or event. Offerings are quick, 5-10 minute issue overviews on topics such as Get Out The Vote, Voter Registration, Fair Housing activities, Community Outreach programs, and other REALTOR® Party programs and services. To schedule, please contact Vanessa Lopez at VLopez@NAR.REALTOR.

- **I had a NAR REALTOR® Party grant for an event I now had to cancel. What do I do?**

NAR Community Outreach Grants can be used for virtual/on-line activity: Leverage a Housing Opportunity, Smart Growth and/or Fair Housing grant to position your association as a leader in your community by hosting an online or virtual event addressing affordable housing challenges, community planning and development issues, revitalization opportunities and fair housing education. If you need more information, application deadlines and/or clarification about whether the event meets grant criteria, contact Wendy Penn for Housing Opportunity or Hugh Morris for Smart Growth and Fair Housing.



State and local REALTOR® associations receiving approval for a Housing Opportunity, Smart Growth, Placemaking or Fair Housing grant must use the award within one year of the application date. If your association is participating in an activity supported by an NAR Community Outreach grant that has been rescheduled due to COVID-19 and impacts your ability to meet the one-year deadline, please contact Christine Windle, Director, Community Outreach, 202/383-1135 for an extension. Community Outreach grants that are approved for extension will have until October 31, 2020 to complete the activity.

