

# HEALS Act: Provisions for Consumers, REALTORS® and the Real Estate Industry

July 29, 2020

On July 27, 2020, the Senate released a series of bills that will offer relief to individuals, families, and businesses still facing hardships posed by the pandemic. The eight bills make up the *Health, Economic Assistance, Liability Protection and Schools (HEALS Act)*.<sup>1</sup> The House of Representatives passed the HEROES Act in May ([read the summary](#)), and now Congress will negotiate the provisions included in these bills over the next few weeks for a final bill that will likely be signed into law. Below is a summary of the HEALS Act provisions that most directly impact REALTORS®, consumers, and the real estate industry as a whole.

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## HOUSING PROVISIONS

### Rental Assistance

- Of the funding included for rural development, \$113,400,000 is provided for assisted housing payments for residents unable to pay rent due to lost wages.
- To maintain current Section 8 voucher rental assistance, \$2.2 billion is provided to cover COVID-19 shortfall of payments.

## BUSINESS PROVISIONS

### Paycheck Protection Program (PPP)

- **501(c)(6) Eligibility:** A PPP loan is now available to 501(c)(6) organizations so long as the organization:
  - (1) has 50 or fewer employees;
  - (2) gets less than 10% of its revenue from lobbying;
  - (3) lobbying is less than 10% of its *activities*; and,
  - (4) the loan is not more than \$500k.
- **PPP Second-Draw:** Allows a second draw of PPP funds by companies with 300 or fewer employees who suffered at least a 50% loss of revenue in the first two quarters of 2020 compared to 2019.

<sup>1</sup> The eight bills include the *Emergency Appropriations* provisions; the *Safeguarding America's Frontline Employees to Offer Work Opportunities Required to Kickstart the Economy (SAFE TO WORK)* Act; the *American Workers, Families, and Employers Assistance Act*; the *Continuing Small Business Recovery and Paycheck Protection Program Act*; the *Safely Back to School and Back to Work Act*; the *Supporting America's Restaurant Workers Act*; the *Restoring Critical Supply Chains and Intellectual Property Act*; and the *Time to Rescue United States Trusts Act of 2020 (TRUST Act)*.



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- Caps these loans at \$2 million, and individual borrowers cannot have cumulative more than \$10 million in SBA loans this year.
- Allocates additional PPP funding - \$25 billion for businesses with 10 or fewer employees and \$10 billion for loans to be made by community lenders.
- **Enhances eligible PPP expenses to now include: costs related to HR/accounting needs; property damage due to “public disturbances” in 2020 (not covered by insurance); and PPE/equipment required to comply with federal and safety guidelines.**
- Allows for borrower discretion in choosing when their PPP “covered period” ends (between 8 weeks from the loan origination and the end of 2020).
- Allows for loans for less than \$150,000 to have a simplified application and loans between \$150k and \$2 million to only complete the certification for their lender.
- Reduces the maximum PPP loan amount from \$10 million to \$2 million.

## Business Liability Protections

- **The HEALS Act's SAFE TO WORK Act establishes temporary rules governing liability for certain coronavirus-related tort claims, protecting businesses, nonprofits, and individuals.**
- Plaintiff's burden of proof is clear and convincing evidence and eligible entities for the safe harbor must:
  - (1) have made reasonable efforts to comply with applicable public health guidelines, and (2) have not engaged in willful misconduct or grossly negligent behavior.
- Creates an exclusive federal cause of action for personal injury and medical liability exposure claims (alleged and actual) that arise from conduct taking place between December 1, 2019, and the later of either the end of the coronavirus emergency declaration or October 1, 2024.
- Includes federal preemption (floor) from any state law that is broader but allows courts to apply state laws that impose further liability limitations.
- Applies a one-year statute of limitations, allows removal to federal court, and imposes limits on compensatory damages, and prohibits punitive damages (except for willful misconduct).
- Liability protections for federal labor and employment laws (i.e. OSHA, FLSA, etc.) for actions taken to comply with coronavirus-related public-health guidance and from liability under the ADA and Civil Rights Act of 1964 if a business cannot offer requested accommodations if it would pose a public health risk.

## Unemployment Assistance

- **Provides \$200 supplemental payments in Federal Pandemic Unemployment Compensation per week for weeks of unemployment through September 2020, in addition to state benefits.**
- **Beginning in October, the supplemental payment would be replaced with a payment (up to \$500) that when combined with the state unemployment benefits, would replace 70 percent of lost wages (either through a specified formula or by a state proposed alternative approved by the Secretary of Labor).**
- Additional funding for states to process unemployment claims and make technology upgrades (\$1.15 billion).



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## Misclassification Concerns

- Ensures that a business providing coronavirus related training, PPE, or other assistance to an independent contractor or a franchisee's employee does not create an employment relationship between the person who provided the assistance and the person who received it.

## TAX PROVISIONS

### Individual Rebates

- **Provides for \$1,200 in recovery rebates per individual (\$2,400 for joint returns) plus \$500 per dependent (of any age), limited to adjusted gross income (AGI) limits as follows:**
  - \$150K for joint returns; \$112,500 for head of household returns; \$75,000 for other returns (single, married filing separately) with income phase-outs the same as for the prior rebates.
- These must be paid out by IRS as rapidly as possible, but at least by 12/31/2020.

### Hiring and Retention Payroll Tax Credit

- Increases the CARES Act Enhanced Employee Hiring and Retention Payroll Tax Credit from 50% to 65%.
- Increases the CARES Act per employee limitation from \$10,000 to \$30,000 (but no more than \$10,000 per calendar quarter).
- Decreases the reduction in gross receipts for eligible employers under CARES Act from 50% to 25%.
- Includes tax-exempt organizations.
- **Allows employers to be eligible for both this program and PPP but with limitations to prevent overlapping benefits.**

### Safe and Healthy Workplace Tax Credit

- 50% tax credit allowed against employment taxes for employee protection expenses, reconfiguration expenses, and workplace technology expenses.
  - Expenses eligible for credit are limited based on employer's average number of employees (i.e., equal to \$1,000 for each of the first 500 employees)
  - Eligible expenses include: testing of employees and customers, masks, gloves, disinfectants, cleaning products and services.
- **Credit also applies to self-employed, who are treated as an employer with a single employee for purposes of the credit.**

### COVID-19 Assistance Provided to Independent Contractors

- Provides safe harbor for certain benefits given to independent contractors (including gig-economy workers) by service recipients or marketplace platform operators. Benefits do not jeopardize independent contractor status and are tax exempt to contractors.
  - These include financial assistance when not working or when work is reduced, health care benefits, COVID-19 equipment, training, etc.

### State tax Certainty for Employers and Employees

- Creates uniform procedures for assessing state and local income taxes on remote and mobile workers affected by government shutdown orders due to the pandemic and changing work conditions during the economic recovery.



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- Through 2024, employees who perform employment duties in multiple states would be subject to income tax only in their state of residence and any states in which they are present and working for more than 30 days (90 days for healthcare workers) during the calendar year.

### OTHER PROVISIONS

#### Student Loans

- Simplifies student loan repayment options to (1) a standard ten-year fixed-rate payment plan (and still be eligible for Public Service Loan Forgiveness (PSLF)) and (2) an income-based payment plan that limits payments to \$0 for incomes below 150% of the poverty line (according to family-size) and no more than 10% of discretionary income (not eligible for PSLF).
- Allows for currently unemployed borrowers to be eligible for \$0 payment through 12/31/2020 subject to audit through 12/31/2021.

#### State and Local Government Support

- Includes an extension to state and local governments to use the relief funds provided by the CARES Act (\$150 billion) for COVID-19 related expenditures from December 30, 2020, to 90 days after the last day of that government's fiscal year (FY) 2021. No new money provided.
- Funding provided for states to use for early childhood education, elementary and secondary education, or higher education, based on state needs (\$5 billion) in addition to grants to states, including funding allocated to school districts (public and private) (\$70 billion).
- Additional funding for testing, contract tracing, and COVID-19 surveillance in states (\$16 billion).

#### Census Funding

- Allocates additional funding for the Census Bureau, including for field operations and data processing, for the 2020 Decennial Census (\$448 million).

### ADDITIONAL RESOURCES

#### HEALS Act Documents

- [Emergency Appropriations \(Legislative Text\)](#)
- [Emergency Appropriations \(Section-By-Section Summary\)](#)
- [Senate Finance Committee Provisions \(Legislative Text\)](#)
- [Senate Finance Committee Provisions \(Section-By-Section Summary\)](#)
- [Continuing Small Business Recovery and PPP Act \(Legislative Text\)](#)
- [Continuing Small Business Recovery and PPP Act \(Section-By-Section Summary\)](#)
- [Continuing Small Business Recovery and PPP Act \(One-Pager\)](#)
- [Safely Back to School and Back to Work Act \(Legislative Text\)](#)
- [Safely Back to School and Back to Work Act \(Section-By-Section Summary\)](#)
- [Child Care Grants One-Pager](#)
- [Simplifying Student Loan Repayment One-Pager](#)
- [Safe to Work Act \(Legislative Text\)](#)
- [Safe to Work Act \(Section-By-Section Summary\)](#)
- [Supporting America's Restaurant Workers Act \(Legislative Text\)](#)
- [Cares 2.0 Restoring Critical Supply Chains and Intellectual Property Act \(Legislative Text\)](#)
- [Cares 2.0 Restoring Critical Supply Chains and Intellectual Property Act \(Section-By-Section Summary\)](#)
- [TRUST Act \(Legislative Text\)](#)
- [TRUST Act \(Section-By-Section Summary\)](#)
- [TRUST Act \(One-Pager\)](#)

