

# INSIDE AND OUTSIDE THE LEASE PART II

**BEGINNING TO UNDERSTAND THE  
CARES ACT, AND BENEFITS TO  
BUSINESSES**

April 2, 2020

CO-HOSTED BY:

**CBRE** MILLER | BARONDESS LLP



**TODAY'S SPEAKER**



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**MODERATED BY**

**SCOTT  
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**01** Inside and Outside the Lease Part II

Amnon Siegel, Miller Barondess

**02** Q&A

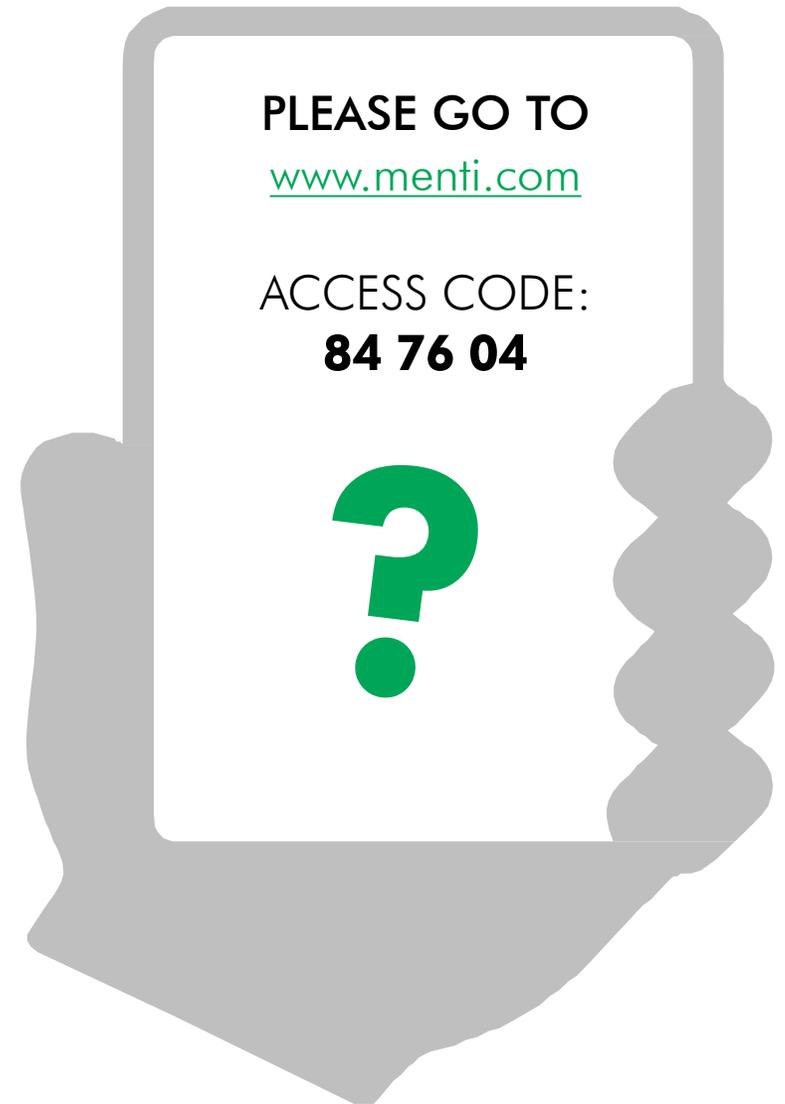
Burning questions answered by the experts



## HOW TO SUBMIT QUESTIONS

### What are your most pressing questions about your lease and the CARES Act?

- You can access Menti from your laptop or mobile phone
- Submit questions at any time throughout the presentation
- Submit as many questions as come to mind
- All submitted questions are anonymous
- Questions will be answered during the Q&A section
- Any questions we don't have time to address will be covered in future webinars and/or articles



A close-up, shallow depth-of-field photograph of a person's hands typing on a laptop keyboard. The person is wearing a grey sweater. The background is blurred, showing another person's hands and a computer monitor. A semi-transparent white box with a green border is overlaid on the left side of the image, containing text.

**CORONAVIRUS AID, RELIEF,  
AND ECONOMIC SECURITY  
(CARES) ACT**

**UNPRECEDENTED CRISIS =  
UNPRECEDENTED NEW LAW**

### Small Business Capital under the CARES Act

- \$2 Trillion Total, including:
  - \$500 billion for big corporations (e.g., airlines)
  - \$153 billion for hospitals and public health
  - \$560 billion for individuals: extra unemployment; cash payments (phased out at certain AGI)
  - \$340 billion for state and local governments
- Some Other Benefits:
  - Requires all private health insurance plans to cover treatments and vaccine and makes all virus tests free
  - Tax filing deadline extended to July 15
- **Small (& Mid-Size) Businesses**: \$349 billion allocated to the “Paycheck Protection Program” (PPP)
  - Purpose: incentivize businesses to keep employees on their payroll
  - *Burning Questions*: Do I qualify? What if I own multiple businesses? What expenses can be forgiven? Is it really all forgiven if used appropriately? How should I handle rent payments?

### Eligibility for PPP Loans

- Businesses with less than 500 employees are eligible
  - Includes part-time employees
- Business type does not matter: LLC, S Corp, nonprofit, etc. (includes self-employed and ICs)
- Businesses with over 500 employees may still be eligible if:
  - They qualify as a “small business” under the SBA’s size standards, e.g.:
    - Wineries and distilleries qualify up to 1,000 employees
    - Music publishers have a size standard of 750 employees.
  - Use SBA size standard tool (<https://www.sba.gov/size-standards/>) or consult the [SBA size standard table](#)
- Potential Eligibility Hurdle—SBA Rules Require Aggregation of Employees based on “Affiliation”: common ownership, holding companies, controlling interests. (Example: Start-ups backed by JV or PE capital) Seek legal advice.
- However: Hotels, Restaurants and Franchises listed on the SBA Franchise Directory still qualify if they have less than 500 employees *per location* (<https://www.sba.gov/sba-franchise-directory>)



### Application Process

- Qualifying business must certify in application that:
  - Current economic uncertainty necessitates loan to maintain business operations (NOT AN INJURY REQUIREMENT);
  - Loan funds will be used to retain employees, maintain payroll and/or make mortgage/rent/utility payments;
  - Applicant does not have application pending for a duplicative loan in purpose and amount applied for.
  - Note: You are ineligible if the business or its owners have defaulted on any federal loan in last 7 years.
- Apply at SBA-affiliated local banks/lenders.
  - Streamlined Application Process. <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Application-3-30-2020-v3.pdf>
  - SBA-approved lenders also available through SBA's "Lender Match" tool at <https://www.sba.gov/funding-programs/loans/lender-match>
- Banks will begin processing business loan applications on Friday, April 3, 2020.
- Deadline to apply is June 30, 2020. DON'T WAIT – APPLY EARLY!

### Loan Amounts

- Maximum amount is the lesser of:
  - \$10 Million; OR
  - 2.5 months of average *payroll costs* in the preceding year (plus amount of any pre-existing disaster loan taken since 1/31/20)
- Payroll costs include:
  - Salaries, wages, tips, commissions
  - Payments for vacations, family, medical or sick leave
  - Group health benefit insurance premiums
  - Retirement benefits and separation payments
  - State and local taxes assessed on employee compensation
- Payroll costs do *not* include compensation in excess of annual salary of \$100,000 (or to employees outside the U.S.)
  - However, payroll costs *do* include compensation up to \$100k annual salary.



### Loan Terms

- All loans under this program will have the following identical features:  
(SBA Press Release dated 3/31/20)
  - Interest rate of 0.5%
  - Maturity of 2 years
  - First payment deferred for six months
  - 100% guarantee by SBA
  - No collateral
  - No personal guarantees
  - No borrower or lender fees payable to SBA
  - FORGIVABLE IF USED FOR APPROPRIATE COSTS!



### Authorized Use of Loan Funds

- Loan proceeds may be used for payroll and other operating business expenses:
  - Payroll Expenses (see prior discussion: salary, retirement, medical benefits, etc.)
  - Mortgage interest payments for mortgages existing before Feb. 15, 2020
  - Rent payments for leases in place before Feb. 15, 2020
  - Utilities
  - Interest on other loans obtained prior to Feb. 15, 2020
  - Other Business Costs (e.g., inventory), but this will not be forgiven!



### Forgiveness – “Loan” Becomes a Grant

- Business must apply for forgiveness to the lender
- Eight-Week Period: Forgiveness applies to amount spent on payroll costs and other designated business expenses during the 8-week period after the origination date of the loan (track these expenses)
- Expenses paid prior to loan origination date will not be forgiven
  - What does that mean for rent?
  - Keep in mind moratorium on evictions and ban on late fees.



### More on Forgiveness

- Applies only to the following costs:
  - Payroll Costs (see prior discussion)
  - Interest payments for mortgages incurred before February 15, 2020
  - Rent for leases in force prior to February 15, 2020
  - Utility payments for which services began before February 15, 2020
- No forgiveness for amount used for other business operating expenses (e.g., inventory)
- 100% forgiveness is possible. SBA caveat: “Due to likely high subscription, *it is anticipated* that not more than 25% of the forgiven amount may be for non-payroll costs.” Non-payroll = mortgage; rent; utilities. At least 75% should be payroll.
- Reductions in forgiveness—Amount of forgiveness will be reduced in proportion to:
  - Employees laid off during the 8-week period after loan origination relative to prior periods; or
  - Reduction in pay of any employee beyond 25% of prior compensation (only applies to employees making less than \$100k)
- However, you can eliminate reductions in loan forgiveness if you re-hire employees laid off or reinstate salaries reduced between Feb. 15 – Apr. 26, 2020 (must do so by June 30, 2020)



Q&A

## WHERE TO LEARN MORE

- Miller Barondess, LLP: <https://www.millerbarondess.com/news/>
- CBRE COVID-19 Resource Center: <https://www.cbre.us/global/covid-19>
- Use SBA size standard tool: <https://www.sba.gov/size-standards/>
- Streamlined Application Process: <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Application-3-30-2020-v3.pdf>
- SBA-approved lenders also available through SBA's "Lender Match" tool : <https://www.sba.gov/funding-programs/loans/lender-match>

# Q & A

# THANK YOU

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