

CMBS Debt Mounts and Loan Servicers Loom

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The hotel industry in the United States has seen definite setbacks throughout the pandemic. While occupancy levels have seen a gradual uptick in recent weeks, COVID-19 and the country's growing economic uncertainty have weighed heavily on revenues, as [reported by The Real Deal](#).

In addition to operating costs, keeping up with regular debt payments has become equally concerning. Owners need to discern how best to manage debt payments on commercial mortgage-backed securities (CMBS) loans.

[Lee Mackson](#), chair of Shutts' Creditors' Rights & Bankruptcy practice group, shared that if certain loan provisions are violated, that could turn a non-recourse loan into a recourse loan against the borrower and any guarantors. For example, CMBS borrowers are often forbidden from taking on any additional debt. An argument could be made that loans under the federal Paycheck Protection Program violate the no additional debt provisions and could subject the borrower to recourse liability if it accepted a PPP loan without first obtaining approval from the servicer.

"It would be a further indebtedness, and it could open it up to bad boy carve-outs," he said.

To read the full article, please click [here](#).

About Lee D. Mackson

[Lee D. Mackson](#) is a partner in the Miami office of Shutts & Bowen LLP and Chair of the Creditors' Rights/Bankruptcy Practice Group. With more than 36 years of experience, Lee advises clients in ways to resolve a variety of complex business disputes in court, arbitration and negotiation, including workouts, commercial foreclosures and trials. Lee primarily represents financial institutions in real estate and banking litigation, among other industries. He represents numerous multi-state lenders and special servicers and has handled multi-million dollar commercial foreclosures. These cases often involve receiverships and rent sequestrations. Lee has also appeared before the United States Supreme Court.

Professionals

Lee D. Mackson

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