

Lee Mackson and Michelle Hendler Discuss CMBS Loan Updates in SFBJ

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Miami partners [Lee Mackson](#) and [Michelle Hendler](#) recently shared their proficiency on CMBS loans and creditors' rights with the South Florida Business Journal. Lee and Michelle, members of the firm's Creditors' Rights and Bankruptcy practice out of the Miami office, were highlighted in the article, titled "[Commercial Real Estate Loans are Going Bad in a Hurry, Lenders in No Rush to Foreclose.](#)"

The COVID-19 pandemic has made it difficult for many retail tenants and office tenants to pay rent. It has also caused revenue at local hotels to slow down. Due to this, many properties secured by commercial mortgage-backed securities (CMBS) are at risk of default.

The CMBS industry updates the status of loans on the "Watch List" monthly. The label means a loan is either in default or the financial performance of the borrower has been compromised, by a loss of income or tenants who intend to leave.

There haven't been many lawsuits filed in recent weeks due to Gov. Ron DeSantis' foreclosure ban, which was extended until June 2. Michelle Hendler stated, "Most loan servicers are willing to negotiate with borrowers for potential forbearance agreements. That was aided by the IRS changing the rules for the favorable tax status of CMBS investments in order to make it easier to reach forbearance deals."

For example, the borrower could defer payments for up to six months, although it would have to come up with a plan to pay it back, either over time or when the loan matures. "Property owners usually need the approval of their lenders to offer tenants rent relief, so that should be part of the conversation about loan forbearance," said Lee Mackson.

For now, some small businesses are using Paycheck Protection Program (PPP) loans to pay their rent, but those will run out in a few months. "We just don't know what the other side will look like," Mackson added. "I don't think there will be a rush to the courthouse to file foreclosures."

Click [here](#) to read more.

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,

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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.

About Michelle G. Hendler

[Michelle G. Hendler](#) is a partner in the Miami office, where she is a member of the Creditors' Rights Practice Group. In working to resolve disputes in and outside of the courtroom, Michelle focuses her practice on real estate and creditor's rights matters. She represents lenders, real estate investors, and special servicers in commercial foreclosures, loan enforcement actions, guaranty claims, and note sales, and she represents court-appointed receivers.

Professionals

Michelle G. Hendler

Lee D. Mackson

Practice Areas

Creditors' Rights and Bankruptcy

Real Estate

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Miami