



## URGENT EXTRAORDINARY MEASURES TO ADDRESS THE ECONOMIC AND SOCIAL IMPACT OF COVID-19

18 March 2020

### INTRODUCTION

Following the declaration of the state of alarm throughout the national territory for an initial period of fifteen days, which can be extended, approved by Royal Decree 463/2020 of 14 March, Royal Decree-Law 8/2020 of 17 March on extraordinary urgent measures to deal with the economic and social impact of COVID-19 (the "Royal Decree") was approved yesterday.

In this sense, from the Department of Real Estate/Financial Real Estate/Promotion and Construction of ONTIER, by means of this bulletin (the "**Bulletin**"), we want to analyze those measures that could be relevant from the perspective of the real estate/financial sector.

### MORATORIUM ON MORTGAGE PAYMENTS FOR PARTICULARLY VULNERABLE GROUPS

Articles 7 to 16, both included, of the Royal Decree provide for a "moratorium on the mortgage debt for the acquisition of the habitual residence of those who are suffering extraordinary difficulties in meeting their payments as a result of the COVID-19 crisis", which will entail, if all the requirements set out in the regulation are met:

- (i) The suspension of the mortgage debt during the period stipulated for it and the consequent non-application of the corresponding early maturity clause;

- (ii) The lack of requesting of the mortgage payment, or of any of the concepts that make it up; and
- (iii) The non-accrual of interest, including the non-application of late interest.

Below we indicate the main characteristics of the aforementioned moratorium:

- (i) The approved moratorium applies only to mortgage debt for the acquisition of the primary residence, i.e. loan or credit agreements secured by a real estate mortgage for the acquisition of the primary residence.
- (ii) In addition, a subjective criterion is provided for, consisting in the fact that the debtor is in one of the cases of vulnerability of Article 9 of the Royal Decree.
- (iii) The cases of vulnerability of the debtor are the following:
- (iv) To be in a situation of unemployment or, in the case of employers/professionals, to suffer a substantial loss of income or a substantial fall in sales, understood as such when this fall is at least 40 %.
- (v) The thresholds set out in Article 9 of the Royal Decree must not be exceeded by the entire income of the members of the family unit (in general, three times the monthly Public Multiple Effect

Income Indicator).

- (vi) That "the mortgage payment, plus basic expenses and supplies, is greater than or equal to 35% of the net income received by all the members of the family unit".
- (vii) Suffering by the family unit of a "significant alteration of its economic circumstances in terms of effort to access housing", as a consequence of the health emergency, understanding as an alteration that the mortgage burden on the family income has been multiplied by at least 1.3.
- (viii) The moratorium also applies to guarantors, guarantors and mortgagees who are not debtors, with respect to their habitual residence and under the same conditions as those established for the mortgagor.
- (ix) Additionally, they may request to exhaust the principal debtor's assets before the guaranteed debt is claimed from them, provided that they meet the vulnerability criteria. El deudor podrá solicitar la moratoria al acreedor a partir del

día de hoy, esto es, 18 de marzo de 2020, y hasta 15 días después del término de la vigencia del Real Decreto (i.e. 17 de abril de 2020 + 15 días), debiendo acompañar toda la documentación prevista en su artículo 11.

- (x) The creditor must implement the requested moratorium within 15 days after the request.
- (xi) Finally, the Royal Decree provides for the liability of the debtor for all those damages that it would have caused had it benefited from the moratorium without complying with the above-mentioned requirements.

#### REGISTRIES

The Royal Decree suspends the period of expiry of presentation entries, preventive notes, mentions, marginal notes and any other registry entries that may be cancelled due to the passage of time until the end of the state of alarm or its extension, as the case may be.

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