

BEITEN BURKHARDT

The BEITEN BURKHARDT coronavirus information centre with the most relevant legal answers:

<https://www.beiten-burkhardt.com/de/corona-informationscenter>

Contact details of our BEITEN BURKHARDT "Coronavirus Task Force" to support you in the crisis at the end of the e-mail.

This article is an update on the article of 23 March 2020: ["BB Corona Task Force - Update: Planned legislative modifications to overcome the crisis"](#)

As the legislator started out a tiger on Friday evening but ended up a bedside rug on Monday, we have summarized the essential and - almost dramatic - changes to the original draft bill for you in short.

CHANGES TO THE DRAFT BILL

In Berlin, the contents of the Legislative Package to Mitigate the Effects of the COVID-19 Pandemic are heavily discussed: Deviating from the first draft, the regulations on the moratorium and loan law shall now only be applicable to **consumers and micro entrepreneurs** with less than 10 employees and a turnover or annual balance of a maximum of two million Euros. Above that, in tenancy and loan law the period of time for the privileged right to withhold performance was reduced to three months respectively, i.e. until 30 June 2020.

The changes in corporate law, however, were expanded and now also include mutual association (VVG), limited liability companies (GmbH) and foundations.

1. MORATORIUM

From now on, only consumers and micro entrepreneurs may refuse to make payments for the fulfilment of an entitlement from a material continuing obligation until 30 June 2020 if they are not able to make the payment due to circumstances which can be attributed to the COVID-19 pandemic. Material continuing obligations are obligations required for the provision of performances for an adequate level of basic services or the adequate continuation of commercial business.

Insofar as the refusal of performance is unreasonable for the creditor, the debtor is entitled to right of termination.

2. LEASE RELATIONS

According to the edited draft, the Lessor is not entitled to terminate the lease insofar as the Lessee fails to pay rent in the period between 01 April 2020 and 30 June 2020 despite maturity and the non-performance is a result of the COVID-19 pandemic. However, the Lessor now has to provide evidence of the connection between the COVID-19 pandemic and the non-performance; in the previous draft, this was assumed in his/her favour.

3. LOAN AGREEMENTS

The current draft only includes consumer loans contracted before 15 March 2020. The claims to be deferred with regards to refunds, interest and/or redemption payments now have to become due between 01 April 2020 and 30 June 2020. If there is no consensual regulation between the loaner and the consumer for the period after 30 June 2020, the term of the contract shall only be extended by three months until 30 September 2020.

The German Federal Government is entitled to extend the scope of these regulations to micro entrepreneurs, in particular.

Your central contacts for inquiries are:

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Best regards,

Your BEITEN BURKHARDT Task Force Team

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