The Economic Stimulus Package & Treasury Department's Financial Stability Plan

Impact on the Commercial Real Estate Industry

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Stimulus Package

On February 17, 2009, President Obama signed H.R. 1, the "American Recovery and Reinvestment Act of 2009". The bill includes $787 billion in spending and tax cuts. Below is a list of investment and tax provisions that are of particular interest to the commercial real estate industry.

IREM and CCIM Institute legislative staff will continue to monitor the implementation of the provisions of the stimulus package and will keep you informed of the latest regulatory developments.

I. Appropriations Provisions

<u>COMMERCE</u>

- $4.7 billion for the Broadband Technology Opportunities Program to accelerate broadband deployment in underserved areas.
- $650 million for additional implementation and administration of the Digital TV converter box coupon program.

<u>ENERGY</u>

- $6.3 billion for energy efficiency grant programs, including $3.2 billion for the Energy and Conservation Block Grants administered by the Department of Energy and $3.1 billion for the State Energy Program.
- $5 billion for the Weatherization Assistance Program.
- $300 million for the Energy Efficient Appliance Rebate program and the Energy Star program.
- $4.5 billion for Electricity Delivery and Energy Reliability to modernize and improve the electricity grid.

<u>ENVIRONMENT</u>

- $200 million for the cleanup of leaking underground storage tanks.
- $4 billion for the Clean Water State Revolving Funds.
- $2 billion for the Drinking Water State Revolving Funds.
- $100 million for Brownfields cleanup.

<u>FEDERAL BUILDINGS</u>

- $4.5 billion to convert GSA facilities to High-Performance Green buildings.

<u>HOUSING</u>

- $4 billion for the Public Housing Capital Fund which will assist public housing authorities in rehabilitating and retrofitting public housing units, including increasing the energy efficiency of units and making critical safety repairs.
- $3 billion for Community Development Fund, including $1 billion for the Community Development Block Grant program and $2 billion for the Neighborhood Stabilization Program. The Neighborhood Stabilization Program funding will assist states, local governments and nonprofits in the purchase and rehabilitation of foreclosed, vacant properties in order to create more affordable housing and reduce neighborhood blight.
- $2.25 billion for the Home Investment Partnerships Programs which provides funds to state housing credit agencies for capital investments in low-income housing tax credit project.

- $2.25 billion for Assisted Housing Stability and Energy and Green Retrofit Investments, including $2 billion available to property owners for rental assistance and $250 million for grants or loans for energy and green retrofit investments.
- $100 million to local governments and nonprofit organizations for removal of lead-based paint hazards in low-income housing.

RURAL DEVELOPMENT

- $1.38 billion additional funding for the Rural Utilities Service loans and grants for water and waste disposal facilities.
- $130 million additional funding for loans and grants for essential rural community facilities including hospitals, health clinics, health and safety vehicles and equipment, public buildings, and child and elder care facilities.

TRANSPORTATION

- $48 billion for transportation-related infrastructure projects including highway and bridge construction; transit new construction, upgrades and repairs; and high speed rail corridors.

II. Tax Provisions

TAX INCENTIVES FOR INDIVIDUALS

- **Extension of AMT relief for 2009.** Provides more than 26 million families with tax relief in 2009 by extending AMT relief for nonrefundable personal credits and increasing the AMT exemption amount to $70,950 for joint filers and $46,700 for individuals.

TAX INCENTIVES FOR BUSINESSES

- **5-Year Carryback on Net Operating Losses for Small Businesses.** Under current law, net operating losses (“NOLs”) may be carried back to the two taxable years before the year that the loss arises (the “NOL carryback period”) and carried forward to each of the succeeding twenty taxable years after the year that the loss arises. For 2008, the legislation extends the maximum NOL carryback period from two years to five years for small businesses with gross receipts of $15 million or less.
- **Extension of Increased Small Business Expensing.** Last year, Congress temporarily increased the amount that small businesses could write-off for capital expenditures incurred in 2008 to $250,000 and increased the phase-out threshold for 2008 to $800,000. This provision extends these temporary increases for capital expenditures incurred in 2009.
- **Small Business Capital Gains Exclusion.** This provision allows a 75% exclusion for individuals on the gain from the sale of certain small business stock held for more than five years. This change is for stock issued after the date of enactment and before January 1, 2011.
- **Extension of bonus depreciation.** Last year, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write-off 50% of the cost of depreciable property acquired in 2008 for the use in the United States. This provision extends this temporary benefit for capital expenditures incurred in 2009.
- **Cancellation of Debt Income.** This section provides tax relief for businesses that reacquire, satisfy or otherwise discharge debt obligations at a discount in 2009 and 2010. The law permits businesses to defer any tax on 2009 and 2010 cancellation of debt income until 2014. The new

provision then taxes that cancellation of debt income ratably over the following five years (2014 – 2018).

- **Temporary Reduction Period for S Corporation Built-In Gains.** This provision temporarily reduces the holding period from ten years to seven years for sales occurring in 2009 and 2010.

ENERGY TAX INCENTIVES

- **Extension of the renewable electricity production credit.** Extends for three years the period during which qualified facilities producing certain renewable electricity may be placed in service for purposes of the electricity production credit.
- **Issuance of new clean renewable energy bonds.** Provides $1.6 billion in new clean renewable energy bonds (CREBs) that may be issued by qualified issuers (public power providers, cooperative electric companies, etc.) to finance qualified renewable energy facilities.
- **Repeal of limitations on credit for renewable energy property.** Eliminates the credit cap applicable to qualified small wind energy property. Also removes the rule that reduces the basis of the property for purposes of claiming the credit if the property is financed in whole or in part by subsidized energy financing or with proceed from private activity bonds.

Treasury Department's Financial Stability Plan

Separate from the Stimulus Package, the Treasury Department recently announced a multi-pronged program intended to help lay the groundwork for restoring the flows of credit to households and businesses. However, at this time the Treasury Department has offered limited details regarding this plan. More details will be provided once they are released by the Treasury Department. Listed below are major components of the plan:

- Expand the existing Term Asset-Backed Securities Lending Facility (TALF) from $200 billion to as much as $1 trillion in order to restart the securitized credit markets that in recent years supported a substantial portion of lending to households, students, small businesses, and others. TALF would also expand to include commercial mortgage-backed securities (CMBS). TALF combines capital provided by the TARP with funding from the Federal Reserve in order to promote lending by increasing investor demand for securitized loans.

- A Public Private Investment Fund, jointly run by the Treasury and the Federal Reserve, with financing from private investors, to buy up hard-to-sell assets that have bogged down banks and financial institutions for the past year. Treasury Secretary Geithner said the new fund, often described as a "bad bank" for holding toxic assets, would start with $500 billion with a goal of eventually buying up to $1 trillion in assets.

- Direct capital injections into banks, using funds from the remaining $350 billion from the Troubled Asset Relief Program (TARP), passed last year by the Bush Administration.

- An Extension of the FDIC's Temporary Liquidity Guarantee Program to October 31, 2009. This program is intended to provide more liquidity to banks and financial institutions.

- A new framework of governance and oversight to help ensure that banks receiving funds are held responsible for appropriate use of those funds through stronger conditions on lending, dividends, and executive compensation along with enhanced reporting to the public.