

Status of CARES Act Foreclosure Moratorium and Post-Forbearance Options for Borrowers with Federally-Backed Mortgage Loans

May 26, 2020

This update supplements NFHA's summary dated [March 20, 2020](#) and the [April 3, 2020](#) update.

I. The Temporary Foreclosure Moratorium in CARES Act Covering Federally-Backed Mortgage Loans Expired on May 17, 2020

Except with respect to a vacant or abandoned property, during the 60-day period beginning on March 18, 2020, a servicer of a federally-backed mortgage loan was prohibited from:

- Initiating any judicial or non-judicial foreclosure process
- Moving for a foreclosure judgment or order of sale
- Executing a foreclosure-related eviction or foreclosure sale

II. Temporary Extension of Foreclosure Moratorium for Federally-Backed Mortgage Loans

Mortgage Servicing Guidelines released on May 14, 2020 by FHA, USDA, VA, Fannie Mae and Freddie Mac uniformly **extended the moratorium on foreclosure sales and foreclosure-related activity to June 30, 2020 for federally-backed loans.**

The mortgage servicing announcements extending the moratorium are available here:

[HUD Mortgagee Letter 2020-13 05.14.20](#)

[USDA Bulletin 05.14.20](#)

[VA Circular 26-20-18 Dated 05.14.20](#)

[FHFA Press Release 05.14.20 Extension of Foreclosure and Eviction Moratorium to June 30, 2020](#) (Regulator of Fannie Mae and Freddie Mac)

III. Right to Request Forbearance on Monthly Payments for Federally-Backed Mortgage Loans Has NOT Expired

Borrowers with a federally-backed mortgage loan experiencing a hardship due, directly or indirectly, to the COVID-19 emergency may continue to request forbearance on their mortgage payments, regardless of delinquency status, through the end of the COVID-19 National Emergency or December 31, 2020, whichever is earlier.

IV. Industry Response Non-Federally-Backed Mortgage Loans

Private Label Securitized Loans (PLS or Non-Agency Loans) and Portfolio Loans

- In general, many servicers appear to be granting initial 90-day forbearances

V. Home Retention Options After Forbearance Period Ends

Borrowers with a federally-backed mortgage loan are not required to repay the payments in a lump sum after the forbearance period ends.

FHA Loans

[HUD Mortgagee Letter 2020-06 04.1.20](#)

FHA's Loss Mitigation Options for Single Family Borrowers Affected by the Presidentially-Declared COVID-19 National Emergency in Accordance with the CARES Act

COVID-19 National Emergency Standalone Partial Claim

- Borrower was current or less than 30 days past due as of March 1, 2020
- Borrower has ability to resume making regular mortgage payments
- Property is owner-occupied
- Partial Claim amount includes only arrearages of Principal, Interest, Taxes and Insurance
- Late fees are waived
- COVID-19 Partial Claim cannot exceed statutory maximum
- Eligible for only one COVID-19 National Emergency Standalone Partial Claim

Borrowers Unable to Resume Regular Mortgage Payments or Otherwise Ineligible for COVID-19 Partial Claim

- Servicer must evaluate for home retention options pursuant to existing loss mitigation evaluation hierarchy
- FHA-HAMP Option is a Loss Mitigation Option using a Loan Modification and/or Partial Claim to allow the mortgage to be reinstated
- [HUD Single Family Policy Handbook 4000.1](#) (PDF Version)
- [Temporary Partial Waiver of Face-to-Face Contact Requirement 03.13.20](#)
- [All HUD Mortgagee Letters](#)

VA Loans

[VA Circular 26-20-12](#) Issued April 8, 2020

If borrower is unable to bring the loan current

- Servicer must evaluate for home retention options pursuant to existing VA loss mitigation evaluation hierarchy
- [VA Servicer Handbook M26-4 Guaranteed Loans](#)

USDA/Rural Development Guaranteed Loans

[USDA Bulletin 05.14.20](#)

If borrower can resume monthly payments

- Offer affordable repayment plan OR
- Term extension deferring missed payments to end of loan

If borrower is unable to bring loan current

- Evaluate for all loss mitigation options outlined in HB-1-3555
- Special relief measures in Chapter 18 Section 5 "Assistance in National Disasters" will apply
- [USDA Servicing Guaranteed Non-Performing Loans HB-1-3555 Chapter 19 \(revised 04.30.20\)](#)

USDA/Rural Development Direct Loans

- [USDA Direct Loans Chapter 5 Special Servicing HB-2-3550](#)

Fannie Mae and Freddie Mac Loans

COVID-19 Payment Deferral

[Fannie Mae Lender Letter 2020-07 COVID-19 Payment Deferral 05.13.20](#)

[Freddie Mac Bulletin 2020-15 COVID-19 Payment Deferral 05.13.20](#)

- For borrowers able to resume regular mortgage payments but cannot immediately bring loan current
- Must have been current or less than 31 days delinquent as of March 1, 2020 and not more than 360 days delinquent at evaluation
- Borrower has not previously received a COVID-19 Payment Deferral
- Property may be vacant or condemned
- See Fannie Mae Lender Letter and Freddie Mac Bulletin for Additional Eligibility Criteria

"Payment Deferral" option defers as a non-interest bearing balloon payment:

- Up to 12 months of past-due Principal and Interest payments
- Out-of-pocket escrow advances paid to 3rd parties; and
- Servicing advances paid to 3rd parties in ordinary course of business and not retained by the servicer, if allowed by state law
- Late fees are waived
- Any resulting escrow shortage may not be included in the deferred amount
- Non-interest-bearing balloon payment amount is due and payable at maturity of the mortgage loan, or earlier upon sale or transfer of the property, refinance or pay-off of the interest bearing UPB
- All other terms of mortgage remain unchanged

Borrowers Unable to Resume Regular Mortgage Payments or Otherwise Ineligible for COVID-19 Payment Deferral Option

- Servicer must evaluate borrower for home retention options pursuant to existing loss mitigation evaluation hierarchy
- Next option is evaluation for a Flex Modification

[Fannie Mae Single Family Servicing Guide 02.12.20](#) (PDF Format)

[Fannie Mae Single Family Servicing Guide](#) (On-Line Format)

[Freddie Mac Seller/Servicer Guide](#) 04.22.20 (PDF Format)

[Freddie Mac Seller/Servicer Guide](#) (On-Line Format)

Non-Federally-Backed Loans

Send a Request for Information seeking identity of the owner of the loan and request information about repayment options at the end of the forbearance period based on investor guidelines.

- RESPA Regulation X – Requests for Information [12 C.F.R. § 1024.36](#)
- Must send to the servicer's designated address for Requests for Information/Notice of Error

VI. Expanded Free Access to Credit Reports

Equifax, Experian, and TransUnion offering free weekly online reports through April 2021.

- Must use this official website [Free Annual Credit Report](#)

VII. Additional Resources

[NHRC Directory of Servicer Contacts for Borrowers](#)

[NCLC Summary Enforcing the CARES Act Credit Reporting Protections](#)

[National Housing Law Project Summary and Analysis CARES Act Tenant Eviction Moratorium](#)

This Summary will be updated as new information is released.
Updates will be posted on [NFHA's COVID-19 webpage](#).