

# Status of Foreclosure Moratorium for Federally Backed Single-Family Mortgages, Right to Request Forbearance and Brief Overview of CFPB RESPA 2021 COVID-19 Mortgage Servicing Rule

September 14, 2021

This Update supplements NFHA Summaries dated [March 20, 2020](#), [April 3, 2020](#), [May 26, 2020](#), [June 30, 2020](#), [September 15, 2020](#) and [March 16, 2021](#).

## FEDERALLY BACKED SINGLE FAMILY MORTGAGE LOANS

### I. Foreclosure Moratorium for Federally Backed Single Family Mortgage Loans Expired July 31, 2021

In NFHA's March 2021 Update, we reported that the foreclosure and eviction moratorium for single-family (1-4 unit) properties with federally backed mortgages was extended to June 30, 2021. Subsequent announcements by FHA, USDA, VA, Fannie Mae and Freddie Mac uniformly extended the moratorium to July 31, 2021. There have been no further extensions. As of August 1, 2021, servicers of federally backed single-family mortgages are no longer prohibited from initiating a judicial or non-judicial foreclosure process, resuming a foreclosure process or moving for a foreclosure judgment or order of sale.

However, COVID-19 related mortgage servicing guidelines noted in section V. below require the servicers to evaluate homeowners who are exiting a COVID-19 forbearance for home retention options. In addition, the CFPB RESPA 2021 COVID-19 Mortgage Servicing Rule, effective August 31, 2021, limits the ability of servicers to initiate a foreclosure for certain mortgage loans prior to January 1, 2022.

## II. Eviction Moratorium Real Estate Owned (REO) Single-Family Federally Backed Mortgages

One aspect of the moratorium was extended to September 30, 2021. If a Foreclosure or Deed-in-Lieu of Foreclosure was completed prior to the initial March 2020 COVID-19 moratorium, occupants in REO single family properties owned by HUD, VA, USDA, Fannie Mae and Freddie Mac **cannot be evicted prior to October 1, 2021.**

Some states have adopted moratoriums regarding foreclosures and evictions of occupants beyond the deadlines for the federally backed mortgages. Check to determine if your state has a moratorium, which may apply to all mortgages, i.e., federally backed, loans held in portfolio and private label securitized loans.

## III. Deadline To Request Initial Cares Act Forbearance

### FHA, VA, USDA LOANS

- September 30, 2021

### FANNIE MAE AND FREDDIE MAC LOANS

- No deadline announced

## IV. Maximum Forbearance Periods Federally Backed Loans

### FHA LOANS

- Maximum forbearance periods between six and eighteen months, depending on the date the initial forbearance began.
  - Forward Mortgages [HUD Mortgagee Letter 2021-18](#)
  - Reverse Mortgages [HUD Mortgagee Letter 2021-15](#)

### USDA GUARANTEED AND DIRECT LOANS

- Maximum forbearance periods between twelve and eighteen months, depending on date the initial forbearance began.
  - Guaranteed Loans [Announcement 07.23.21](#)
  - Direct Loans [Announcement 06.25.21](#)

### VA LOANS

- Maximum forbearance periods between twelve and eighteen months, depending on date the initial forbearance began.
  - [VA Circular 26-21-04 Dated 02.16.21](#)
  - [VA Circular 26-21-10 Dated 06.25.21](#)

## FANNIE MAE AND FREDDIE MAC LOANS

- Maximum forbearance periods between twelve and eighteen months. Borrowers in COVID-19 forbearance plan as of February 28, 2021, may request up to eighteen months.
  - [Fannie Mae Lender Letter 2021-02 Updated 06.30.11](#)
  - [Freddie Mac Bulletin 2021-8 Dated 02.25.21](#)

## V. COVID-19 Loss Mitigation Guidelines — Federally Backed Loans

### FHA

- [HUD ML 2021-05](#) Expansion of COVID-19 Loss Mitigation Options.
- [HUD ML 2021-15](#) Establishment of the COVID-19 Advance Loan Modification.
- [HUD ML 2021-18](#) Establishment of COVID-19 Recovery Options, effective 10.21.21. Servicers may implement ML 2021-18 prior to effective date.

### USDA

- [USDA Guaranteed Loans COVID-19 Special Relief Measures](#)
- **USDA Direct Loans** – No specific COVID-19 Relief Measures have been announced.

### VA

- [VA COVID-19 Home Retention Waterfall and COVID-19 Refund Modification](#)

## FANNIE MAE AND FREDDIE MAC LOANS

- [Fannie Mae Payment Deferrals Matrix](#) as of 07.12.21
- [Fannie Mae Lender Letter 2021-07 Updated 06.30.21](#) Deferral and Flex Modification
- [Freddie Mac Bulletin 2021-8 Payment Deferral](#)
- [Freddie Mac Bulletin 2021-24 Flex Modification for COVID-19 Impacted Borrowers](#)

## VI. Brief Overview of CFPB RESPA 2021 COVID-19 Mortgage Servicing Rule

[CFPB COVID-19 Mortgage Servicing Rule Executive Summary](#)

[CFPB COVID-19 Mortgage Servicing Final Rule Effective Aug. 31, 2021](#)

**[EARLY INTERVENTION REQUIREMENTS FOR CERTAIN BORROWERS 12 CFR 1024.39 AS AMENDED; SUNSETS OCT. 1, 2022](#)**

Promptly after establishing live contact under the existing Rules, servicers must provide delinquent borrowers with specific, additional information including:

Borrowers Not in a Forbearance Program:

- Availability, if any, of forbearance programs
- A list and brief description of applicable programs
- Inform borrowers how to find contact information for housing counseling services

Borrowers in a Forbearance Program:

- Scheduled end date of any existing forbearance plan and a list and brief description of any loss mitigation programs, including available forbearance extensions and repayment options; and how borrowers can apply for those options
- Inform borrowers how to find contact information for housing counseling services

### [LOSS MITIGATION PROCEDURES 12 CFR 1024.41 AS AMENDED](#)

[Sections 12 CFR 1024.41\(c\)\(2\)\(v\) and \(vi\)](#) allow a servicer to offer certain COVID-19 related payment deferral and loan modification options based on the servicer's evaluation of an incomplete loss mitigation application. The deferral and loan modifications must meet the criteria described in these rules.

Most borrowers exiting forbearance will be at least 120 days delinquent.

[Section 12CFR 1024.41\(f\)\(3\) Temporary Special COVID-19 Loss Mitigation Procedural Safeguards](#) was created to prohibit servicers from making the first notice or filing to initiate foreclosure **in certain cases** between August 31, 2021, and December 31, 2021, to give borrowers exiting forbearance the opportunity to pursue loss mitigation options. Section 41(f)(3) sunsets on December 31, 2021.

- Temporary rule is not limited to federally backed loans.
  - Applies to closed-end "[federally related mortgage loans](#)" secured by borrower's principal residence.
- Not limited to borrowers who were officially on a "COVID-19 Forbearance Plan."
  - Covers borrowers who experienced a financial hardship due, directly or indirectly, to the national emergency for the COVID-19 pandemic.

### **12 CFR 1024.41(f)(3) TEMPORARY SPECIAL COVID-19 LOSS MITIGATION PROCEDURAL SAFEGUARDS**

#### **PROHIBITION ON INITIATING FORECLOSURE BETWEEN AUG. 31 – DEC. 31, 2021, APPLY IF:**

- The loan became more than 120 days delinquent **on or after March 1, 2020**, and
- The statute of limitations to initiate foreclosure expires on or after January 1, 2022.

Prior to initiating foreclosure, the servicer must ensure that one of the following “procedural safeguards” has been met:

- (A) Borrower was evaluated based on a complete application by current servicer and:
  - Borrower remained delinquent since evaluation and
  - Servicer followed existing Mortgage Servicing Rules and permitted by the Rules to make a make the first notice or filing for foreclosure.
- (B) The property is abandoned according to state or local law.
- (C) The servicer did not receive any communications from the borrower for at least 90 days before initiating foreclosure and additional conditions in subsection (C) are met.

These procedural safeguards do not apply to:

- Small Servicers
- Loans more than 120 days delinquent before March 1, 2020
- Borrowers with Reverse Mortgages

## VII. Additional Resources for All Loans

Equifax, Experian, and TransUnion continue to offer free weekly credit reports at the official free [Annual Credit Report](#) website.

[The National Housing Resource Center List of Servicer Contacts](#)

[Fourteen New Federal Actions Protecting Mortgage Borrowers | NCLC Digital Library](#)

[CFPB COVID-19 Mortgage and Housing Assistance](#)

[CFPB Mortgage Servicing Rules Page](#)

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