

FORECLOSURE PROTECTION AND MORTGAGE PAYMENT RELIEF FOR HOMEOWNERS

Since March 18, 2020, there have been a series of official actions relating to relief for mortgage borrowers, and we expect further actions in coming days and weeks. This informational sheet summarizes the most current information about these measures available as of the date listed above. Please note that this document only covers actions taken with regard to mortgages on single-family (1-4 unit) properties and does not cover actions taken with regard to mortgages on multifamily (i.e., more than 4-unit) properties or the details of the federal eviction moratorium.

First, it is important to know that **the federal actions taken so far *do not* apply to all mortgages on single-family properties.** Of all outstanding single-family mortgages, roughly 70% are owned or backed by a federal agency, and about 30% (roughly 14.5 million loans) are privately owned and not backed by any federal agency. The federal actions so far only apply to federally-owned or -backed loans. Some financial institutions and some states have announced different types of mortgage relief for homeowners that do apply to borrowers with privately-owned mortgages, but those measures are not necessarily consistent with the new federal measures.¹ **It is therefore very important to determine what type of a loan a borrower has in order to understand what protections and options are available.**

Tools for Determining What Type of Loan a Borrower Has

Fannie Mae/Freddie Mac ("GSE") - use loan look-up tools for Fannie Mae [here](#) or for Freddie Mac [here](#).

Federal Housing Administration (FHA) - check mortgage documents for an FHA case number or specific references to FHA; check mortgage statement for FHA mortgage insurance premium charge; check property records (if available online) for a second deed of trust in favor of the HUD Secretary. Because some loans that were originally FHA-insured may have been sold out of that status, check with the servicer or with HUD's National Servicing Center (877/622-8525).

Veteran's Administration (VA) - if the borrower does not know already, check mortgage documents for specific references to the VA and closing documents for fees paid to the VA.

Dept. of Agriculture/Rural Housing Service (RHS) - borrowers with direct loans from RHS will already know the type of loan they have, but for borrowers with loans guaranteed by RHS, check closing documents and contact the servicer.

¹ The National Consumer Law Center is [tracking state-level foreclosure moratoria and payment relief plans](#). Keep in mind that many of these plans are either not mandatory or are limited in scope, so be sure to check the primary documents rather than relying on press releases and news coverage.

Second, despite some news reporting to the contrary, **none of the mortgage payment relief options currently available is automatic.** In all cases, **borrowers *must* contact their mortgage servicer (i.e., the company they pay each month) in order to request assistance and find out what options are available.** They should expect long hold times on servicers' telephone lines and likely delays in responses to email or online communications. When possible, using email or a trackable online interface is preferable so the borrower will have a record of the communications with the servicer.

Please check back for a list practical tips for advocates, housing counselors and homeowners dealing with mortgage servicers during and after the COVID-19 crisis, coming by March 13.

FORECLOSURE PROTECTIONS:

On March 27, 2020, the President signed into law the [CARES Act](#), which includes a foreclosure moratorium for certain loans on single-family properties.

Who is protected: Borrowers with "federally backed mortgage loans" and tenants living in a property with such a loan. A "federally backed mortgage loan" is a loan owned, insured or guaranteed by one of the following entities: the Department of Housing and Urban Development (HUD)²; the Department of Veterans Affairs, the Department of Agriculture, Fannie Mae or Freddie Mac.

What it does: Prevents mortgage servicers from initiating a judicial or non-judicial foreclosure, seeking a court order for a foreclosure judgment or order of sale, holding a foreclosure sale or executing a foreclosure-related eviction.

Duration: March 18 - May 17, 2020 (unless extended).

Related Actions by Federal Agencies:³

[FHA Foreclosure and Eviction Moratorium](#) (March 18, 2020)⁴

[VA Recommendation re. Foreclosure Moratorium](#) (March 18, 2020)

[USDA Foreclosure Moratorium](#) (March 25, 2020 - eff. as of March 19, 2020)

[Fannie Mae Foreclosure Moratorium](#) (March 18, 2020, updated March 25, 2020)

[Freddie Mac Foreclosure Moratorium](#) (March 18, 2020)

² Through the Federal Housing Administration (FHA), the Home Equity Conversion Mortgage (reverse mortgage) program, the Indian Home Loan Guarantee Program or the Native Hawaiian Loan Guarantee Program.

³ These agencies' respective foreclosure moratoria have the same start date and duration as the foreclosure moratorium in the CARES Act.

⁴ Contrary to the President's [reference](#) in a press conference that same day to HUD's temporary suspension of "all foreclosures and evictions", HUD's March 18 action only suspended foreclosures on single-family properties and only suspended evictions for tenants in such properties.

MORTGAGE PAYMENT RELIEF:

The federal [CARES Act](#), referenced above, also requires services of federally backed mortgage loans to offer borrowers forbearance plans (*i.e.*, temporary deferral of monthly payments) under certain conditions.

Who is protected: Borrowers with "federally backed mortgage loans" who have a financial hardship caused, directly or indirectly, by the COVID-19 emergency. A "federally backed mortgage loan" is a loan owned, insured or guaranteed by one of the following entities: the Department of Housing and Urban Development (HUD)⁵; the Department of Veterans Affairs, the Department of Agriculture, Fannie Mae or Freddie Mac. Note that a borrower does not have to be current on payments to be eligible for assistance.⁶

What it does: Requires a mortgage servicer that receives a request for payment assistance from a borrower who affirms they are experiencing a financial hardship caused, directly or indirectly, by the COVID-19 emergency, to offer the borrower forbearance of up to 180 days, meaning that monthly payments can be reduced or deferred for up to six months. The servicer must also extend the forbearance for up to an additional 180 days upon request by a borrower during the COVID-19 emergency.

It is very important for borrowers to understand that a forbearance ***does not*** mean that the deferred payments are being forgiven or waived. Once the forbearance ends, the borrower will still have to work with the mortgage servicer to bring the loan current through one of a number of methods, including reinstatement by lump sum, repayment plan or loan modification. One option that will be offered by at least some lenders is a loan extension/payment deferral plan with the payments missed during the forbearance period paid in equal installments after the end of the original loan maturity date.

The CARES Act prohibits servicers from requiring any documentation of a borrower's hardship beyond an "attestation to a financial hardship caused by the COVID-19 emergency"⁷ before granting a forbearance. Servicers are also prohibited from adding to a borrower's account any fees, penalties or interest charges beyond what the borrower already owed during the forbearance period.

Duration: March 27, 2020 through either: the end of the COVID-19 emergency or December 31, 2020, whichever is earlier.

⁵ Through the Federal Housing Administration (FHA), the Indian Home Loan Guarantee Program or the Native Hawaiian Loan Guarantee Program.

⁶ See CARES Act Sec. 4022(b)(1) ("regardless of delinquency status).

⁷ *Id.*, Sec. 4022(c)(1).

Related Actions by Federal Agencies:⁸

[FHA Forbearance Guidance](#) (March 18, 2020)

[VA Recommendation re. Forbearances](#) (March 16, 2020)

[USDA Guidance re. Immediate Relief](#) (March 25, 2020 - eff. as of March 19, 2020)

[Fannie Mae Forbearance Eligibility](#) (March 18, 2020, updated March 25, 2020)

[Freddie Mac Forbearance Plans](#) (March 18, 2020)

For more information about single-family mortgages, foreclosures and payment relief during the COVID-19 emergency, please contact Lisa Sitkin at lsitkin@nhlp.org.

⁸ The guidance from these federal agencies aligns with the provisions in the CARES Act regarding the maximum duration of COVID-19-related forbearance plans, however, each agency has its own rules regarding how forbearances are handled by servicers, so it is important to review the agency-level information as well.