

Status of CARES Act Foreclosure Moratorium and Right to Request Forbearance for Single-Family Federally Backed Mortgage Loans

September 15, 2020

This Update supplements NFHA's Summaries dated [March 20, 2020](#), [April 3, 2020](#), [May 26, 2020](#) and [June 30, 2020](#).

I. Temporary Extension of Foreclosure Moratorium for Federally Backed Mortgage Loans to December 31, 2020

In NFHA's [June 30, 2020 COVID-19 Update](#), we reported that the foreclosure and eviction moratoriums for single-family (1-4 unit) properties with federally backed mortgages were extended to August 31, 2020.

Mortgage Servicing Announcements released in late August by FHA, USDA, VA, Fannie Mae and Freddie Mac uniformly extended the moratorium prohibiting servicers from initiating the foreclosure process, moving for a foreclosure judgment or order of sale, conducting foreclosure sales and foreclosure-related evictions to December 31, 2020 for federally backed loans, excluding mortgages secured by vacant or abandoned properties.

The announcements extending the moratorium to December 31, 2020 are available here:

[HUD ML 2020-27](#)

[USDA Direct and Guaranteed Loans \(updated 09.01.20\)](#)

[VA Circular 26-20-30](#)

[Federal Housing Finance Administration Press Release 08.27.20:](#)

FHFA announced that Fannie Mae and Freddie Mac will extend the moratoriums on single-family foreclosures and real estate owned (REO) evictions until at least December 31, 2020.

[Fannie Mae Lender Letter 2020-02 \(updated 08.27.20\)](#)

II. Right to Request COVID-19 Forbearance – Federally Backed Loans

CARES Act Section 4022(b) Forbearance

A borrower with a federally backed mortgage loan experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency may request forbearance on the federally backed mortgage loan, **regardless of delinquency status**, by submitting a request to the servicer and affirming that the borrower is experiencing a financial hardship during the COVID-19 emergency.

- "Regardless of delinquency status" applies to borrowers in foreclosure.
- Servicer may not require documentation of the hardship.
- Servicers must inform borrowers that a "lump sum" payment will not be due at the end of the initial or extended forbearance period and that borrowers will be reviewed for loss mitigation options per the applicable servicing guidelines.

The initial forbearance shall be granted up to 180 days and shall be extended for an additional period of up to 180 days at the request of the borrower, provided that, at borrower's request, either the initial or extended period of forbearance may be shortened.

- If a borrower was granted an initial 90-day forbearance, the servicer must allow this initial forbearance to be extended to 180 days.
- **At the end of the first 180-day period, a borrower must again submit a request to the servicer to obtain the second 180 forbearance.**
 - **Servicers cannot automatically extend the forbearance for the additional 180 days.**
- Some servicers are encouraging borrowers to make payments if they are able.
 - **Making a payment during the forbearance period does not extend the forbearance by the number of months payments are made.**
- Borrowers who previously set up automatic payments, such as ACH, must contact their financial institution to discontinue the payments. These payments will not be cancelled by the servicer.
- Borrowers must respond to servicer's attempts to contact them prior to the end of the forbearance period to enable servicer to review for the applicable home retention options.
- Some options for FHA, Fannie Mae and Freddie Mac borrowers require no or limited financial documentation but contact with the servicer is required.

III. Deadline to Obtain CARES Act Mortgage Forbearance

Section 4022(b)(1) of the CARES Act states that during the covered period, a borrower with a federally backed mortgage loan experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency may request forbearance. However, a drafting error omitted the definition of "covered period" in this Section in the final version of the Act. In earlier drafts, it was defined as the date of enactment of the Act and ending on the sooner of the termination date of the COVID-19 National Emergency or December 31, 2020.¹

COVID-19 servicing announcements from VA, Fannie Mae and Freddie Mac have not indicated an expiration date to request forbearance. However, in [HUD ML 2020-06](#) HUD stated that servicers may approve the initial 180 day COVID-19 Forbearance no later than October 30, 2020. The USDA [announced on 09.09.20](#) that servicers may approve the initial 180-day COVID-19 Forbearance for Guaranteed Loans no later than December 31, 2020.²

IV. COVID-19 Resources Websites for Federally Backed Mortgage Loans and General Loss Mitigation Guidelines

FHA-INSURED LOANS

[COVID-19 FAQs Origination and Servicing](#)

[COVID-19 Resources for Homeowners](#)

[HUD ML 2020-22](#) Issued 07.08.22 FHA's COVID-19 Loss Mitigation Options

[All HUD Mortgagee Letters](#)

[Temporary Partial Waiver of Face-to-Face Contact Requirement 03.13.20](#)

[HUD Single Family Policy Handbook 4000.1](#) Issued 10.24.19 (PDF Version)

USDA/RHS

[USDA Rural Development COVID-19 Page](#)

¹ This is the same definition of "covered period" in the following section of the Act. See Section 4023(f)(5) regarding the borrower's right to request forbearance for multifamily properties with federally backed loans.

² [USDA Guaranteed Loans Bulletin May 14, 2020](#) indicated an Oct. 30, 2020 expiration date for a servicer to approve the initial forbearance.

[USDA Servicing Guaranteed Non-Performing Loans HB-1-3555 Chapter 19 \(revised 04.30.20\)](#)

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

VA LOANS

[VA Loans COVID-19 Related Information for Borrowers and Servicers](#)

[VA Circulars Home Loans](#)

[VA Servicer Handbook M26-4 Guaranteed Loans](#)

FANNIE MAE LOANS

[Fannie Mae Loan Look-Up](#)

[Fannie Mae Know Your Options – Information for Homeowners](#)

[Fannie Mae Pay Deferrals Matrix Updated 09.01.20](#)

[Fannie Mae Lender Letter 2020-07 COVID-19 Payment Deferral Updated 06.10.20](#)

[Fannie Mae COVID-19 Servicing Resources](#)

[Fannie Mae Single Family Servicing Guide](#)

The Fannie Mae Guide does not include the COVID-19 Forbearance and Post-Forbearance Options. The COVID-19 related assistance guidelines are “temporary policies” described in the COVID related lender letters released thus far and are available at the Fannie Mae COVID-19 Servicing Resources link above.

FREDDIE MAC LOANS

[Freddie Mac Loan Look Up](#)

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

[Freddie Mac COVID-19 Servicing Resources](#)

[Freddie Mac Seller/Servicer Guide 09.02.20](#)

The Freddie Mac Seller/Servicer Guide does not include the COVID-19 Forbearance and Post-Forbearance Options. The COVID-19 related assistance guidelines are “temporary policies” described in the COVID

related bulletins released thus far and are available at the Freddie Mac COVID-19 Servicing Resources link above.

V. Additional Resources

[The National Housing Resource Center List of Servicer Contacts](#)
[National Consumer Law Center COVID-19 and Consumer Protections](#)

[National Housing Law Project Protecting Renter and Homeowner Rights During Our National Health Crisis](#)

[CFPB FAQs Mortgage Servicing Rules re COVID-19 - April 2020](#)

[CSBS and CFPB CARES Act Forbearance & Foreclosure – Additional Guidance May 2020](#)

[CFPB Mortgage Servicing Rules Page – including CFPB Interim Rule on Loss Mitigation Options for Homeowners Recovering from Pandemic-Related Financial Hardships](#)

[CFPB General Information for all COVID-19 Impacted Homeowners](#)

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