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Strength in Numbers

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Follow-up Report from the April 3rd
Member Connection Call on COVID-19

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Single Family Housing Foreclosure Moratorium

The CARES Act formalized and expanded the pre-existing (piecemeal) foreclosure moratoriums that agencies like HUD and USDA had already announced.

For any residential real property, designed for 1-4 person families, which has a loan secured by first or subordinate lien from the below list, a servicer may not initiate any judicial or non-judicial foreclosure process, move for a foreclosure judgement or order of sale, or execute a foreclosure-related eviction or foreclosure sale between March 18th and May 15th, 2020:

- Insured by FHA,
- Insured by Sec. 255, National Housing Act (Home Equity Conversion Mortgage program),
- Guaranteed by Sec. 184, Housing and Community Development Act of 1992 (Loan Guarantees for Indian Housing),
- Guaranteed or insured by VA,
- Guaranteed or insured by USDA,
- Made directly by USDA, or
- Purchased or securitized by the Federal Home Loan Mortgage Corporation, or the Federal National Mortgage Association.

NOTE: The one exception is that if the property is vacant or abandoned, this moratorium does not apply.



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Single Family Housing Forbearance Options

The CARES Act directs that borrowers on any residential real property, designed for 1-4 person families, which has a loan secured by first or subordinate lien from the below list, and who are experiencing a financial hardship, directly or indirectly, to the COVID-19 emergency, may request forbearance, beginning March 18th, 2020.

Furthermore, the CARES Act mandates that *forbearance shall be granted for up to 180 days, and shall be extended for an addition 180 days at the request of the borrower.*

During the forbearance period, no fees, penalties, or interest beyond the amounts previously scheduled shall accrue on the borrowers account.

Types of covered borrowers, same as above in SFH foreclosure section:

- Insured by FHA,
- Insured by Sec. 255, National Housing Act (Home Equity Conversion Mortgage program),
- Guaranteed by Sec. 184, Housing and Community Development Act of 1992 (Loan Guarantees for Indian Housing),
- Guaranteed or insured by VA,
- Guaranteed or insured by USDA,
- Made directly by USDA, or
- Purchased or securitized by the Federal Home Loan Mortgage Corporation, or the Federal National Mortgage Association.



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Multifamily Forbearance for Mortgage Holder Options

The CARES Act provided an avenue for borrowers with federally backed multifamily mortgage loans, who are experiencing financial hardship due directly or indirectly to COVID-19, to receive forbearance on their loan.

Upon receipt of documentation of the financial hardship, and is the borrower was current on their payments as of February 1st, 2020, servicers *shall provide 30 days of forbearance, and extend the forbearance for up to two additional 30 day periods.*

If granted forbearance, the borrower may not (for the duration of the forbearance) *evict or initiate the eviction of a tenant from a dwelling unit in the property solely for the nonpayment of rent or other fees or charges, and the borrower may not charge any late fees, penalties or other charges for late payment of rent.*

Furthermore, if granted forbearance the borrower may not require a tenant to vacate a dwelling unit before a 30 day period has passed since the time that the notice to vacate was delivered. Such a notice may not be delivered until after the expiration of forbearance.

NOTE: *There is considerable overlap between these eviction provisions and the wider Federal Eviction Moratorium section below. Some of the provisions are duplicative, and are likely the result of the speed with which Congress passed the bill. If you considering not taking the forbearance because you don't want to be bound by the eviction moratorium, please carefully read the section on the federal eviction moratorium, on page five of this document, to determine if your property is covered by those eviction protections.*

This forbearance opportunity applies to any loan for a residential multifamily real property designed for 5 or more families that is secured by first or subordinate lien:

- Made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government.

NOTE: *Temporary financing, such as a construction loan, is NOT eligible for this forbearance.*

Federal Eviction Moratorium¹

The CARES Act mandates that between March 27th and July 25th, 2020, the lessor of covered dwellings (defined below) may not:

- Make any filing with a court to initiate a legal action to recover possession from a tenant for nonpayment of rent or other fees or charges, or
- Charge fees, penalties, or other charges to a tenant related to nonpayment of rent, or
- After the expiration of the time period, require tenant to vacate before 30 days after a notice to vacate is delivered.

This does not affect cases that:

- Were filed before the moratorium,
- That involve non-covered tenancies and units, or
- Have a cause for eviction other than nonpayment of rent.

Covered properties:

- HUD funded-
 - Public housing
 - Section 8 Housing Choice Voucher
 - Section 8 project-based
 - Section 202 for the elderly
 - Section 811 for people with disabilities
 - Section 236 multifamily rental
 - Section 221(d)(3) Below Market Interest Rate
 - HOME Investment Partnership
 - HOPWA
 - McKinney-Vento homeless programs
- USDA funded-
 - Section 515 Rural Rental
 - Sections 514/516 Farm Labor Housing
 - Section 533 Housing Preservation Grants
 - Section 538 multifamily rental
 - Section 542 Rural Housing Vouchers
- Treasury funded –
 - Low-income Housing Tax Credit
- Properties with federally-backed mortgage loans
 - Properties with 1-4 units with loans secured by any lien “made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government”.

¹ Please see a report from the National Housing Law Project for a more in-depth analysis of these eviction protections, at: <https://www.nhlp.org/wp-content/uploads/2020.03.27-NHLP-CARES-Act-Eviction-Moratorium-Summary.pdf>