

# CARES Act and Foreclosures on 1-4 Unit Dwellings

## Who/what is covered?

A borrower is covered by the Act if:

1. During the covered period;
2. The underlying mortgage is backed by a federally backed mortgage;
3. The borrower requests forbearance by submitting a request to the servicer affirming the borrower is experiencing a financial hardship during the COVID-19 emergency.

Federally backed mortgage loans for 1-4 unit dwellings are those:

1. Insured by the Federal Housing Administration under Title II of the National Housing Act; or
2. Insured under section 255 of the National Housing Act; or
3. Guaranteed under section 184 or 184A of the Housing and Community Development Act of 1992; or
4. Guaranteed or insured by the Department of Veterans Affairs; or
5. Made by the Department of Agriculture
6. Purchased or securitized by the Federal Home Loan Mortgage Corporation (Freddie Mac) or the Federal National Mortgage Association (Fannie Mae).

## What restrictions are there for dispossession on covered properties?

For these properties, the servicer:

1. Shall grant forbearance for up to 180 days with an additional 180 days if borrower requests;
2. Cannot charge any additional fees, penalties or interest beyond the amounts scheduled or calculated as if the borrower made all contractual payments;
3. Shall not require anything from borrower other than borrower's attestation as to financial hardship.
4. Except for vacant or abandoned property, may not initiate any judicial foreclosure or execute a foreclosure-related eviction for not less than the 60-day period beginning on March 18, 2020. .

Therefore, no cases will be ripe for filing until at least May 18, 2020.

Burden of proof is on the on servicer to show that moratorium does not apply.

## Sunset

The "covered period" is defined as the period commencing on March 27, 2020 and ending on the first to occur of (A) the termination date of the national emergency concerning the coronavirus disease outbreak declared by the President on March 13, 2020 and (B) December 31, 2020.

# CARES Act and Foreclosures/Dispossessories on 5 + Unit Dwellings

## Who/what is covered?

A borrower is covered by the Act if:

1. During the covered period;
2. The underlying mortgage is backed by a federally backed mortgage;
3. Was current on its payments as of February 1, 2020;
4. The borrower requests orally or in writing forbearance by submitting a request to the servicer affirming the borrower is experiencing a financial hardship due directly or indirectly to the COVID-19 emergency.

Federally backed mortgage loans for 5 or more unit dwellings are those:

1. Made, insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the federal government; or
2. Purchased or securitized by the Federal Home Loan Mortgage Corporation (Freddie Mac) or the Federal National Mortgage Association (Fannie Mae).

## What restrictions are there for dispossessories on covered properties?

For these properties, the servicer:

1. Shall document the financial hardship;
2. provide forbearance for up to 30 days
3. extend for up to 2 additional 30 day periods upon request by borrower as long as borrower makes request at least 15 days prior to the end of the forbearance period;
4. borrower can discontinue forbearance at any time;

For these properties, the borrower:

1. may not evict or initiate eviction for the unit or property for non-payment of rent or other fees or charges;
2. may not charge any late fees, penalties or other charges related to the non-payment of rent;
3. may not require a tenant to vacate a dwelling in the property before the date that is 30 days after the date on which the borrower provides tenant with a notice to vacate; AND
4. may not issue a notice to vacate until after the expiration of the forbearance;

Therefore, no cases will be ripe for filing until at least 30 days after the forbearance period ends.

Burden of proof is on the on servicer (for foreclosures) or borrower (for dispossessories based on failure to pay rent) to show that moratorium does not apply.

## Sunset

The "covered period" is defined as the period commencing on March 27, 2020 and ending on the first to occur of (A) the termination date of the national emergency concerning the coronavirus disease outbreak declared by the President on March 13, 2020 and (B) December 31, 2020.