

Providing Brief Helpline Services on COVID-19 & Mortgage Relief Options

TIP SHEET • June 2020

The Basics

The COVID-19 pandemic has made it harder for millions of homeowners to pay their mortgages. To reduce the risk of widespread foreclosures, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).¹ The CARES Act gives some borrowers temporary protection from foreclosure, both by establishing a foreclosure moratorium and offering homeowners forbearance of mortgage payments. But about a third of all borrowers are not covered by either provision.

This tip sheet offers guidance for legal helplines and hotlines to provide information to helpline callers on whether their loan is covered by the CARES Act, what relief options may be available to them, and how to get more information and assistance.

Helping Callers Identify the Loan Type

The CARES Act mortgage relief provisions and newly extended foreclosure moratorium apply to “federally backed mortgage loans,” defined as first or second mortgages on 1–4 family homes (including cooperative and condominium units) issued, purchased, or backed by the following agencies:

- Fannie Mae or Freddie Mac;
- U.S. Department of Veterans Affairs (VA);
- Federal Housing Administration (FHA), including home equity conversion (HECM) reverse mortgages, and mortgages under the Indian Home Loan Guarantee program; and
- U.S. Department of Agriculture (USDA).²

To determine if a homeowner is covered by the new extension of the foreclosure moratorium and the existing forbearance options, one must determine if the homeowner’s mortgage loan is issued, owned, or backed by one of these five agencies, as described below. Most helpline callers may not know what type of loan they have, but helpline providers may be able to assist them in finding this information.

Strategies for Identifying the Loan Type

A first step is to use the look-up tool on the Fannie Mae and Freddie Mac websites:

- [Fannie Mae](#)
- [Freddie Mac](#)

Both require the address of the mortgaged property and the last four digits of the borrower’s Social Security number. Many lenders use Fannie and Freddie’s forms, but use of such forms does not mean Fannie or Freddie owns or guarantees the loan. If the look-up tool does not show that either Fannie Mae or Freddie

1 Pub. L. No. 116-136 (Mar. 27, 2020).

2 [CARES Act § 4022\(a\)\(2\)](#).

Mac owns the loan, helpline providers may need to turn to the borrower's closing paperwork or monthly statement. If the caller does not have the ability to scan and email the documents to you, you can walk them through looking for these indications of other federally backed loans:

- VA loans:
 - » The security instrument will include a clause saying, "THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE DEPARTMENT OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT." The HUD-1 or closing disclosure may include a charge for a "VA Funding fee," but not all VA loans require this fee.
- FHA loans:
 - » Normally the loans have an FHA case number at the top of the note and security instrument. HECMs usually say "Home Equity Conversion" on the note and security instrument. Forward mortgages normally show a charge for the FHA Mortgage Insurance Premium or "MIP" on the HUD-1 or closing disclosure. This charge will also appear on the borrower's monthly statement. Unfortunately, some loans that went into default during the housing crisis were stripped of their FHA-insured status. Borrowers were notified of this change, but otherwise, the only way to know is to ask HUD's National Servicing Center at 877-622-8525.
- USDA loans:
 - » There will usually be some indication on the HUD-1 or closing disclosure and there may also be a guarantee attached to the note.

If the helpline caller does not have any paperwork, try looking up the security instrument at the recorder's office. Many now make documents available online. Another option is to call the servicer, but getting through to someone with accurate information about the loan investor may be difficult.

A more reliable method for obtaining this information is to send a "Request for Information" (RFI). An RFI that seeks the identity of the mortgage owner is treated differently than other RFIs. It must be responded to by the servicer within ten business days (rather than thirty), and the servicer is not permitted to extend the response time as can be done for other RFIs. If the helpline caller needs to take this step, a helpline provider may want to connect them with a local legal aid provider or housing counselor to assist them with drafting and sending this letter.

Providing Brief Information on Foreclosure Alternatives

Callers with Federally-Backed Loans

If you or the helpline caller are able to identify the loan type as a federally-backed loan, you can use the National Consumer Law Center's [Summary of Foreclosure Alternatives for Borrowers with COVID-19 Hardships](#) to determine which programs may be available to them.

Callers with Non-Federally-Backed Loans

If you determine that the helpline caller has a mortgage loan that does not meet the definition of "federally backed mortgage loan," CARES Act protections do not apply. Here are additional options for relief that helpline providers can explore:

- State Foreclosure Relief: many states have adopted broad foreclosure moratoriums that protect borrowers regardless of loan type, and some states have instituted mortgage loan forbearance programs. For a continuously updated list, showing which actions are still current, see [Covid-19 State Foreclosure Moratoriums and Stays](#).

- Voluntary Federal Guidance: federal bank regulators have issued [guidance](#) encouraging institutions to work with borrowers and have relaxed some standards that may previously have limited a servicer's flexibility to offer relief.

Helpline providers can encourage callers to contact their servicer by phone or online. Online may be the faster option as servicers are currently overwhelmed by the number of calls they are receiving. Borrowers can also request assistance by writing to the servicer. Helpline providers can assist the caller by checking the servicer's website or a recent account statement for the appropriate mailing address. Letters to the wrong address may be delayed or lost (or not effective if intended as a Request for Information). Callers should frame the letter as a Request for Information (RFI) about loss mitigation options. Such a letter will be governed by the response rules in RESPA's Regulation X. A sample RFI borrowers may use to ask about available loss mitigation options can be found here:

- [Sample RFI—PDF version](#)
- [Sample RFI—MS Word version](#)

To Request Forbearance or Not?

If the helpline caller can still afford to make the payments, it is better to continue making them. Payments skipped under the forbearance will still become due sooner or later. Borrowers may not be satisfied with the repayment options available at the end of the forbearance. There is a risk that a servicer will make a mistake when processing the forbearance, and unwinding such errors can be difficult.

If the helpline caller cannot afford to continue paying, requesting a forbearance is almost certainly a better option than simply defaulting on the loan. Loans in default accrue extra fees, such as late charges and property preservation inspections. The servicer will eventually begin to process the loan for foreclosure. And even if the borrower ultimately reinstates the loan by making the missed payments, a default and foreclosure will harm the borrower's credit more than a forbearance. Consumers with payment problems should contact their servicer before they miss a payment.

Tips to Share with Callers

If the helpline caller needs to contact their mortgage servicer to determine which mortgage relief programs they may be eligible for, helpline providers can assist by providing callers with tips for reaching and communicating with their servicer:

- Servicer call centers are currently overwhelmed; borrowers should try applying online through the servicer's account portal.
- When making a request by phone or by letter, borrowers with a financial hardship due to the COVID-19 emergency should state that clearly.
- Find out how long the forbearance will last. If borrowers' financial problems have not been resolved before the end of the forbearance, they should request an extension before the forbearance ends (borrowers are entitled to a total forbearance period of up to 360 days under the CARES Act).
- If the borrower has an escrow account, ask how escrowed items will be paid during the forbearance. The servicer should continue to pay them if the borrower has an escrow account. But otherwise, if the borrower cannot continue those payments, the borrower should contact each payee.
- Find out how the borrower will be required to make up the payments at the end. Making a lump sum payment will be impossible for most borrowers; be prepared to request other arrangements.
- Borrowers who do not have an escrow account should continue to pay their property taxes, insurance, HOA fees, and other home-related items, if possible.

- Borrowers who believe they have been improperly denied a forbearance or have other problems with their servicer should submit a complaint to the Consumer Financial Protection Bureau using its complaint [portal](#).

Referrals

Some helpline callers will need more than brief services to address their mortgage issue, particularly if they are in active foreclosure or if they are unable to take some of the self-advocacy steps described in this tip sheet. Helpline providers can use the [Elder Care Locator](#) or Legal Services Corporation's [Find Legal Aid](#) to locate legal aid providers. Additionally, the caller may benefit from working with a local [HUD-approved housing counselor](#).

Additional Resources

- [NCLC's Mortgage Servicing and Loan Modifications](#) includes extensive details on loan modifications and working with loan servicers.
- [NCLC's Major Consumer Protections Announced in Response to COVID-19](#) is continuously updated with state and federal protections for homeowners.
- [NCLC's COVID-19 web page](#) has continually updated information on homeowner protections, pending legislation, and recommendations for new protections.

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

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