

Updated: Avoiding Foreclosure after the Expiration of the Covid-19 Mortgage

TIP SHEET • August 2021

National Consumer Law Center

NATIONAL
CENTER ON
**LAW &
ELDER
RIGHTS**

Over a million mortgage borrowers are currently in forbearance because the COVID-19 crisis has impacted their ability to make monthly payments. This tip sheet summarizes options available for borrowers who are exiting forbearance.¹

Forbearance

when the mortgage servicer or lender allows the borrower to temporarily stop making payments on the loan

Important note about a forbearance: it does not make the payments go away; the borrower must still make the payments sooner or later unless other steps are taken.

Federally Backed Loans: How to Identify Them

- Loans guaranteed by Fannie Mae or Freddie Mac
 - » Look it up: [Fannie Mae](#) or [Freddie Mac](#).²
 - » Requires borrower name, property address, and last 4 numbers of borrower's SSN.
- Loans insured or guaranteed by FHA/USDA/VA/HUD
 - » FHA loans: It will say on the loan and closing documents; statement may show MIP charge; or call HUD's National Servicing Center at 877-622-8525.
 - » VA loans: It will say on the loan and closing documents, borrower will usually be a veteran.
 - » USDA loans: It will usually say on the loan or closing disclosures; there may also be a guarantee attached to the note and the property will be in a rural area.
 - » HUD Section 184/184A loans: It will usually say on the loan or closing disclosures and there may also be a guarantee attached to the note; borrower will be a currently enrolled member of a Federally Recognized Tribe.

¹ For additional information, see Steve Sharpe, NCLC, Fourteen New Federal Actions Protecting Mortgage Borrowers (July 28, 2021), library.nclc.org/fourteen-new-federal-actions-protecting-mortgage-borrowers.

² Fannie: knowyouroptions.com/loanlookup; Freddie: loanlookup.freddiemac.com/.

Background on COVID-19 Protections

Protection for federally backed loans

- The CARES Act requires federally backed loans to provide forbearance of mortgage payments for up to 12 months for borrowers experiencing a financial hardship due, directly or indirectly, to COVID-19.³
- The agencies that guarantee or insure federally backed loans have implemented a moratorium on foreclosures until July 31, 2021.

Protection for non-federally backed loans

- Some lenders/servicers have voluntarily given forbearances for loans that are not federally backed (“private loans”).
- Some states such as MA, MD, NY, OR, & DC have mandated certain forbearance and post-forbearance programs.

New CFPB Rule Protecting Borrowers with COVID-19 Hardships

- Effective from August 31, 2021 through December 31, 2021, the CFPB’s amended Regulation X provides temporary procedural safeguards prior to the initiation of foreclosure with some exceptions.⁴
- In addition, the rule includes additional early intervention requirements to help address borrowers facing default from a COVID-19 hardship.

What Happens When The Forbearance Ends?

Borrowers with federally backed loans will NOT be required to repay the missed payments all at once when the forbearance ends.

Post-forbearance options for Fannie Mae and Freddie Mac loans

- **Repayment plan:** resume regular payments plus extra to gradually pay off the missed payments.
- **COVID-19 payment deferral:** the payments missed during forbearance are placed in a no-interest balance, which only becomes due when the first mortgage is paid off or the house is sold.
 - » This is for people who can afford the pre-forbearance monthly payment but not more.
- **Flex modification:** the servicer can add missed payments to the loan balance, reduce the interest rate, extend the repayment term of the loan, or defer part or all of the missed payments to reduce the pre-forbearance payment by 20%.
 - » This is for people who can no longer afford their pre-forbearance payment.
 - » Update: borrowers with loan-to-value (LTV) ratios of 80% or less may now be eligible for interest rate reductions.
- **Graceful exit:** if the borrower cannot afford a modified payment, they can ask for a short sale or deed-in-lieu of foreclosure and negotiate time to move out.

³ For more background and links to lender letters, see library.nclc.org/mortgage-relief-homeowners-affected-covid-19.

⁴ For more information, see Sarah Mancini and John Rao, NCLC, New CFPB Rule Protects Homeowners Facing Foreclosure (Aug. 5, 2021), library.nclc.org/new-cfpb-rule-protects-homeowners-facing-foreclosure.

Post-forbearance options for owner-occupied FHA loans

- **Repayment plan:** resume regular payments plus extra to gradually payoff the missed payments.
- **Advance Loan Modification (ALM):** servicer sends a modification offer without the borrower requesting it if a 25% reduction in the monthly principal and interest payment can be achieved with standard loan modification terms.
- **COVID-19 standalone partial claim:** similar to Fannie/Freddie payment deferral option but the deferred balance becomes a recorded lien on the property.
- **COVID-19 Recovery Modification:** targets a 25% reduction in monthly principal and interest payment through the combination of a loan modification and a partial claim.
- **Standard FHA loss mitigation**

Post-forbearance options for VA loans

- **For borrowers who can afford to restart their pre-hardship mortgage payments and can pay their arrears:** servicers offer a repayment plan.
- **For borrowers who can afford to restart their pre-hardship mortgage payments, but need help to cover arrears:** servicers offer either 1) disaster extend modification; 2) deferment; or 3) VA's new partial claim program.
- **For borrowers who cannot afford their pre-hardship payment:** COVID-19 Refund Modification that can combine a partial claim and a modification and that targets a 20% reduction in the monthly principal and interest payment.
- **Graceful exit:** compromise (short) sale, deed-in-lieu of foreclosure.
- **Other options:** refinance and refunding (VA takes over loan).

Post-forbearance options for USDA loans

Guaranteed loans:

- Servicers should first consider standard loss mitigation options, including deferral, term extensions, and loan modifications.
- If the borrower needs more relief than the standard loss mitigation options provide, servicers should evaluate for the COVID-19 specific loan modification option that targets a 20% reduction in the monthly principal and interest payment through the combination of an interest rate reduction, term extension, and Mortgage Recovery Advance.

Direct loans:

- No specific relief for COVID-19 hardships.
- Problem: standard post-forbearance options do not allow for an interest rate reduction or loan term extension.
- Can apply for an additional 12 months of forbearance under “moratorium”.

Post-forbearance options for Section 184/184A:

Indian Home Loan Guarantee Program loans

- **COVID-19 loss mitigation advance:** similar to a partial claim, impact on borrower is the same as partial claim.

- **Other options:** all existing loss mitigation options for the Section 184 and 184A programs.
- HUD will issue further guidance in the near future.

Port-forbearance options for private loans

- Check for any state-specific requirements and ask their servicer what their options are. A HUD-certified housing counselor⁵ may be able to help. The servicer of a private loan is allowed to demand full repayment after the forbearance ends.

For all loans

To find out what type of loan a client has and to ask what options are available, send the servicer a “Request for Information” (RFI).⁶

Additional Resources

- [NCLC COVID-19 & Consumer Protections](#)
 - » [Mortgage Relief for Homeowners Affected By COVID-19](#)
- [NCLER Consumer Protection Trainings](#)
- Consumer Financial Protection Bureau: [Find a Housing Counselor](#)
- [Fannie Mae Loan Look-Up Tool](#)
- [Freddie Mac Loan Look-Up Tool](#)

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

This Tip Sheet was supported by contract with the National Center on Law and Elder Rights, contract number HHSP233201650076A, from the U.S. Administration on Community Living, Department of Health and Human Services, Washington, D.C. 20201.

⁵ [Consumerfinance.gov/find-a-housing-counselor/](https://consumerfinance.gov/find-a-housing-counselor/).

⁶ Making the Most of NOEs and RFIs, nclc.org/images/pdf/conferences_and_webinars/mortgage-conference/2016/material/MakingMostofNOEs-and-RFIs.pdf. A sample letter is here: library.nclc.org/file/2020-06-15-sample-rfi-forbearance-infodoc.