

COVID-19 & The CARES Act Mortgage Relief Provisions

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Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.
- Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.



About NCLC

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S.

NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitative practices, help financially stressed families build and retain wealth, and advance economic fairness.

Key Lessons

- Relief for those financially harmed by COVID-19
 - Stimulus checks
 - Car Repossessions
 - Utilities
 - Debt Harassment
 - Credit reporting
 - Mortgage issues
 - Forbearance
 - Post-Forbearance options

Older Adults & Economic Insecurity

- Over 25M Americans 60+ are economically insecure
- Average income/per person = < \$29,000
- Millions of older adults struggle to meet their monthly expenses
- Not considered “poor” because they live above the Federal Poverty Level (FPL)

COVID-19's Impact on Older Adults

- More likely to have dire outcomes from the virus
- Significant increase in financial strain
- Many lack the health care, resources, and social structures that contribute to overall wellness

Sources of Protection

- [Federal CARES Act](#): March 27, 2020
- Broad ranging federal law
- Gives financial assistance and protection to consumers and businesses
- Stimulus checks, mortgage forbearance

State Law

- State law
 - Executive orders
 - Court orders
 - Local relief
 - *Varies Widely*
- NCLC is [tracking state and local government responses](#) relevant to the collection of non-mortgage consumer debts

Protecting Income & Handling Debt Issues

Protecting Stimulus Checks

- *Consumers who have an outstanding judgment entered against them in a collection lawsuit may be at risk of losing stimulus money*
- More important than ever to protect this money from garnishment
- *See:*
 - [NCLC's Protecting Stimulus Checks From Garnishment;](#)
 - [FAQs on Stimulus Payments](#)
 - [Protecting Against Creditor Seizure of Stimulus Checks](#)

Protecting Stimulus Checks: Debts

- Protected from using to offset certain debts owed to **federal** or **state gov't** under CARES Act
- BUT may be able to garnish bank accounts

Protecting Stimulus Checks: States

- Each state is different
 - Many have closed courts = no new orders
 - But existing orders still may be executed
 - If Courts are open = remote hearings

Protecting Stimulus Checks: State Law

- Each state has own attachment or garnishment laws
 - May or may not attach to new funds
 - Collector may have waited to execute

How to Protect Stimulus Checks (1 of 2)

If check has been garnished

1. File an emergency stay/restraining order on due process grounds:

- deprived of due process of law of funds that are necessary to maintain basic life necessities
- During court closure and/or stay at home order – no opportunity to be heard and assert defense i.e.: exemptions
- Seizure of funds in joint account with judgment against one owner only
- See [West Virginia Circuit Court Emergency Order](#)

How to Protect Stimulus Checks (2 of 2)

2. Assert relevant state exemptions

- See [NCLC's Library](#) for an appendix of state exemptions
- Relevant exemptions many include those for **public benefits, money in bank accounts, tax credits, or wildcard exemptions**

Identifying & Responding to Stimulus Check Issues on Helplines

- Screening for issues—add questions about:
 - Have they received their stimulus payment?
 - Have they been able to access it?
- Is full representation needed to recover garnished funds?
 - Locate legal assistance providers on [Elder Care Locator](#) or [LSC website](#)
- For quick information when on the phone:
 - NCLER tip sheets for [nursing facility residents](#), [HCBS recipients](#), & individuals with [rep payees](#)

Car Loans & Repossessions

- Check for state and local orders regarding repossessions and debt collection activity in general
 - NCLC resource available on [state protections](#)
- Determine who the creditor is on the loan and see if it offers any emergency relief
- Determine who regulates the creditor
- Insurance premiums?
- Use the NCLC Automobile Fraud manual: litigation checklist in chapter 1
 - review finance payment history and agreement for possible claims = leverage

Trouble With a Leased Vehicle?

- 1/3 of all cars are leased. Finance companies don't want them back now
- Try to negotiate a discount if trouble paying (or an extension if not)

Lifeline

- Federal **Lifeline phone and broadband program** for free or discounted voice and data service
- To determine eligibility and to apply go to [Lifeline Support](#)
- Can be helpful information for helpline callers who indicate they do not have enough phone minutes to speak with you or who need internet access for self-help forms or remote hearings

Utilities and Broadband

- **Low-Income Home Energy Assistance Program ("LIHEAP") program:**
 - energy assistance to low income persons struggling to pay bills.
 - Visit [Benefits.gov](https://www.benefits.gov) to check eligibility and where to apply
- Congress added \$900 million to LIHEAP assistance funding for the states in the CARES Act

Debt Collection

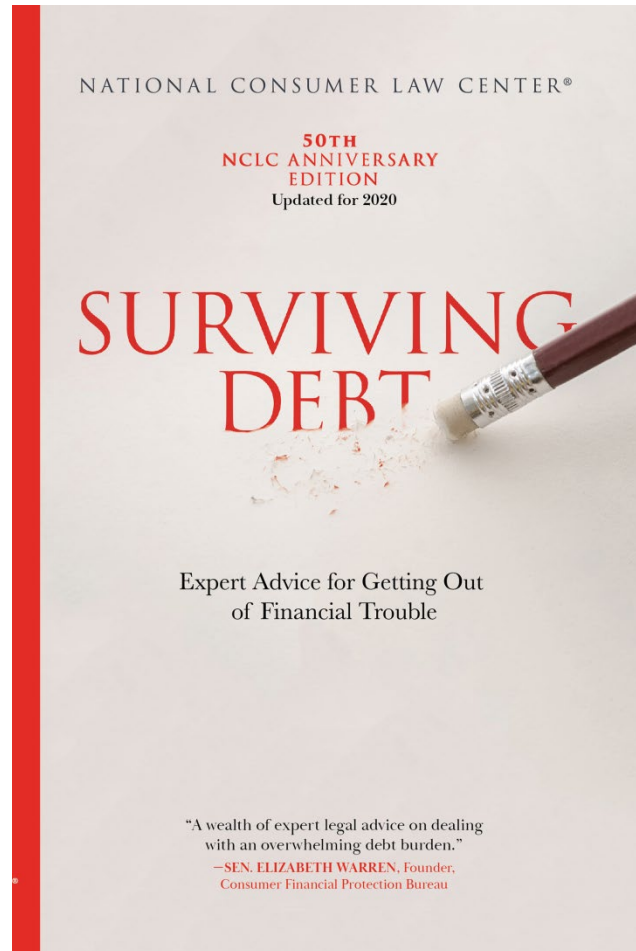
- If someone is sued, contact court to find out about COVID-19 relief
 - Restrictions on garnishment of wages, bank accounts
 - Help clients navigate **remote hearings**

Stop Harassment

- Warn consumers not to give in to the pressure of debt collectors
- Must prioritize debt in which nonpayment immediately harms consumer
 - Court judgments, criminal justice debt, car loans, rent, utilities, child support
 - Surviving Debt
- Send letters
 - Stop contact: Surviving Debt p. 15
 - Exempt Income letter p.17
 - Verification letter p. 17-18
 - Dispute letter p. 19

Free Online Now

Surviving Debt



Medical Debt (1 of 2)

- Testing for COVID-19 should be free
- If receive a bill, contact hospital or provider to explain testing is free
- If insurer is involved, contact them
- If private insurer is not complying, contact state insurance commissioner or AG's office

Medical Debt (2 of 2)

- Treatment should be covered
- Hospitals are receiving federal funds to cover care for uninsured patients
- Non-profit hospitals should have financial assistance policies in place
- Some states have ordered coverage
- Some insurers have waived co-pays

CARES Act & Credit Reporting

CARES Act:

- Limited protection for credit reports
- For all credit accounts
- If you get a forbearance, payment deferral, or other accommodation AND
- you were **current** when you received the approval,
- *the creditor must continue to report you as current*

Credit Reporting

- If you were delinquent, you'll continue to be reported as delinquent unless you can catch up during the accommodation period
- Try to work out a payment plan
 - Need to be persistent with each creditor – long wait times

Tenants & CARES Act

- Wide range of state and local COVID-19 protections
- CARES Act covers:
 - Temporary moratorium of evictions for covered mortgages until July 25, 2020
 - Cannot evict after July 25, 2020 without 30 days' notice
 - Cannot charge fees, penalties, or other charges to tenant related to nonpayment of rent

Tenants

- CARES Act does NOT cover:
 - Eviction cases filed before the moratorium took effect, or after
 - Non-covered tenancies
 - If eviction based on reason other than non-payment of rent, fees, charges
- Upcoming NCLER webinar with National Housing Law Project on July 14th: [COVID and Due Process During Evictions](#)
 - [NHLP Resource](#)

Forbearance & Foreclosure Moratoriums

Mortgage Relief

- Encourage borrowers to pay mortgage if can afford it
- If not: relief may be available, but not for all loans
- For all loans: can't start foreclosure unless 120 days behind
 - Under RESPA, 12 CFR 1024.41

CARES Act

- Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136
- [Link to the CARES Act](#) (NCLC [summary](#))
- Section [4022](#):
 - Provides **temporary** forbearance relief for borrowers with “**federally backed mortgage loans**”
 - FHA; USDA; VA; Fannie Mae & Freddie Mac

Type of Loan (1 of 3)

- Need to find out what kind of loan borrower has
 - [Fannie Mae Loan Lookup](#)
 - [Freddie Mac Loan Lookup](#)
- If can't tell, ask servicer

Type of Loan (2 of 3)

- FHA: Can call HUD National Servicing Center at 877-622-8525
- VA, USDA: Most borrowers will know
- Not sure? Ask for forbearance anyway

Type of Loan (3 of 3)

- Links to guidance that the agencies and entities are giving and contact information
 - [U.S. Department of Housing and Urban Development \(HUD\)](#)
 - [U.S. Department of Agriculture](#)
 - [USDA Direct](#)
 - [USDA Guaranteed](#)
 - [U.S. Department of Veterans Affairs \(VA\)](#)
 - [Federal Housing Administration \(FHA\) \(Includes reverse mortgages\)](#)
 - [CFPB: Guide to coronavirus mortgage relief options](#)

For All Loans: Request for Information

- Write a Request for Information asking for:
 - identity of, and address or other relevant contact information for, the owner or assignee of my mortgage loan;
 - the full name, address, and contact information for any trust that owns the loan and the trustee; or
 - any federally related entity that owns, insures, or guarantees my loan, including Fannie Mae, Freddie Mac, the Federal Housing Administration, or the U.S.D.A. Rural Housing Service

Request for Information

- Must use correct QWR/RFI address
- Response in 10 business days
- Find [sample and instructions](#) from CFPB

Federally Backed Loans & Forbearance

- Can request forbearance if:
 - Federally backed mortgage loan
 - Financial hardship due, directly or indirectly, to the COVID–19 emergency
 - Any amount of delinquency
- No documentation needed

What is a Forbearance Agreement?

- A reduction or suspension of payments for a set amount of time
- The payments are not waived or forgiven; they will have to be paid back
- Does not cover taxes, insurance, or condo fees if no escrow account

Federally Backed Loans

Covered period:

- March 27, 2020 until the sooner of—
 - (A) the termination date of the national emergency; or
 - (B) December 31, 2020.

Terms of Forbearance

- Up to 180 days, and shall be extended for an additional period of up to 180 days at the request of the borrower
- ONE YEAR OF RELIEF
- No fees, penalties, or interest (beyond the amounts due under the terms of the mortgage) charged to the borrower in connection with the forbearance

Foreclosure Moratorium for Federally Backed Loans

- Expired May 17, 2020 under CARES Act BUT
- Federally-backed loans extended to **August 31, 2020**

Multifamily Properties With Federally Backed Loans

- Sec. 4023: Forbearance for Multifamily (5+) Properties
- **Must have been current as of February 1, 2020**
- Forbearance up to 30 days plus up to 2 additional 30 day periods = 90 days total
- Cannot evict during forbearance

If The Loan Is Not Federally Backed

- Depends on the owner/investor of the loan
- To find out options:
 - Call, review website, or
 - Write Request for Information asking for all loss mitigation options available for the particular loan and instructions on how to apply for and/or request each loss mitigation option

Another Request for Information

- Must use correct address
- 30 days to respond
 - A sample Request for Information (RFI) borrowers may use to ask about available loss mitigation options can be found here:
 - [RFI Example PDF version](#)
 - [RFI Example: MS Word](#)
 - A sample RFI that advocates may use for information about a loss mitigation application can be found at [NCLC's Mortgage Servicing and Loan Modifications Appx. E.2.7.](#)

What Happens at the End of a Forbearance Agreement?

- Pay the full amount in a lump sum at the end of the forbearance period;
- Add an extra amount to your monthly payments until the amount is repaid;
- Add the suspended payments to the end of the loan; or
- Apply for a loan modification

When the Forbearance Ends...

Federally backed loans do **not** require lump sum payment

- For example:
 - Fannie Mae and Freddie Mac COVID-19 Deferral Program:
 - Put up to 12 months of forbearance payments and escrow advances at end of loan
 - Due at maturity, sale, payoff

Fannie Mae Lender Letter LL-2020-07

Freddie Mac Bulletin 2020-15

[Fannie Link](#); [Freddie Link](#)

FHA COVID-19 Partial Claim

- **FHA COVID-19 National Emergency Standalone Partial Claim**
 - Places arrears of principal, interest, taxes, and insurance that were subject to forbearance at end of loan in non-interest bearing loan
 - Due at maturity, sale, payoff

Find Out About Repayment Options

- Ask when applying, or
- Write a Request for Information asking:
 - All repayment options available at the end of that forbearance period, and
 - Instructions on how to apply for and/or request each loss mitigation option
- Connect with a HUD-approved housing counselor: 800-569-4287 or on their [website](#)

See:

- [*Coronavirus Emergency: What Consumers Need To Know About Mortgage Relief*](#)
- [*NCLC's Surviving Debt Ch. 16-17 \(free online\)*](#)

Helplines & Mortgage Questions

- Providing brief information about possible options:
 - Think of key words that callers can look for in their paperwork
 - Locate contact information for their servicer and provide tips for what to ask the servicer
 - Screen for underlying debt issues to see if they can continue to pay
- Connect to additional resources
 - Locate full-scope legal representation on [Elder Care Locator](#) or [LSC website](#)
 - Locate a local [housing counselor](#)

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Case Consultations

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

Poll 1

- Are any of your older adult clients currently experiencing a housing challenge related to COVID-19?
 - Yes
 - No

Poll 2

- Please select any of the housing challenges your clients are facing related to COVID-19 (may select more than one)
 - Rental payment challenges
 - Eviction
 - Mortgage payment challenges
 - Foreclosure
 - Lack of safe housing

Poll 3

- Has your organization changed what it provides to clients as a result of COVID-19?
 - Yes
 - No