Insights: Alert

CARES Act | Foreclosure Moratorium and Consumer Right to Request Forbearance

March 29, 2020

Please note: The below information may require updating, including additional clarification, as the COVID-19 pandemic continues to develop. Please monitor our main COVID-19 Task Force page and/or your email for updates.

The federal CARES Act contains several provisions that provide assistance for borrowers of Federally backed mortgage loans who are experiencing financial hardship because of COVID-19. A copy of the current legislation can be found here – the provisions are located in Subtitle A, Title IV – Coronavirus Economic Stabilization Act of 2020.

- The CARES Act provides that a Federally backed mortgage loan borrower who affirms he or she is experiencing financial hardship due directly or indirectly to the COVID-19 emergency shall be granted a forbearance of up to 360 days.
- The CARES Act directs that servicers of Federally backed mortgage loans grant the forbearance upon a borrower's affirmation of hardship caused by COVID-19 without additional documentation, fees, penalties or interest for up to 180 days. This initial period may be extended for another 180 days upon the borrower's request. The grant of forbearance is not discretionary.
- The CARES Act provides that no fees, penalties or interest beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full will accrue on the borrower's account during the forbearance period.
- The CARES Act further provides that, except for vacant or abandoned property, a Federally backed mortgage loan servicer is prohibited from initiating any foreclosure process, seeking a foreclosure judgment or order of sale, or executing a foreclosure-related eviction or foreclosure sale for at least a 60-day period that began on March 18, 2020.
- **Key Terms:**
    - The CARES Act defines a “Federally backed mortgage loan” as any loan that is secured by a first or subordinate lien on real property (including individual units of condominiums or cooperatives) designed principally for the occupancy of from one to four families that is (A) insured by the Federal Housing Administration or the National Housing Act, (B) guaranteed under Housing and Community Development Act, the Department of Veterans Affairs, or the Department of Agriculture, (C) made by the Department of Agriculture or (D) purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.