

COVID-19 Mortgage Updates: CARES Act Mortgage Related Provisions, FHA Mortgage Letters and Q and A's, Ginnie Mae Announcement re Creation of Liquidity Facility to Support Servicers

In just the last few days, there have been numerous new COVID-19 related developments regarding mortgage lending and servicing:

CARES ACT

The new CARES Act has created significant restrictions and requirements regarding credit reporting, payment forbearance for single-family and multifamily loans, single-family foreclosure moratoriums and multifamily eviction moratoriums.

Section 4021: Credit Reporting

Section 4021 modifies the FCRA, imposing new COVID-19 related reporting requirements on furnishers of information to consumer reporting agencies. If a furnisher makes an accommodation to any payments the furnisher must continue to report the account as current. If the account was delinquent before the accommodation, the furnisher may continue to report the account as delinquent. This new requirement applies to accommodations made between January 31, 2020 to until 120 days after the end of the COVID-19 national emergency.

Section 4022: Single Family Foreclosure Moratorium & Forbearance

Forbearance: For 1-4 unit single-family residential properties that have "Federally backed mortgage loans", a borrower suffering financial hardship due to the COVID-19 emergency may request payment forbearance, regardless of delinquency status. At the request of the borrower, the forbearance period is up to 180 days and can be extended for an up to an additional 180 days. During the forbearance period, the lender may not charge penalties, fees or interest that would have been charged if all such payments had been timely made. The servicer may not initiate judicial or non-judicial foreclosure for not less than the 60 period beginning on March 18, 2020.

"Federally backed mortgage loans" include loans that are secured by a first or subordinate lien, where the loan is an FHA loan, a VA loan, a Department of Agriculture loan, or is purchased or securitized by Freddie Mac or Fannie Mae.

Foreclosure Moratorium. Further, excepting vacant or abandoned properties, a servicer of a Federally backed mortgage loan may not initiate or advance any foreclosure proceeding for at least 60 days until at least May 17.

Section: 4023: Multifamily Loan Forbearance

For multifamily properties, Section 4023 creates a forbearance requirement for “Federally backed loans” (using the same definition as is found in Section 4022 for single-family properties). To invoke the forbearance, the borrower must have been current on payments as of February 1, and must be suffering financial hardship due to the COVID-19 emergency. The forbearance period is 30 days, with up to two additional 30-day extensions at the request of the borrower.

Borrowers who receive such forbearance may not evict or penalize tenants for late or non-payment of rent, or charge late fees, penalties or other charges to tenants.

Section 4024: Eviction and Late Fees Moratorium

Section 4024 creates a moratorium on eviction filings against single family or multifamily tenants in dwellings located on “covered property” for a 120-day period. Covered property includes any property that has a federally back single-family mortgage loan or federally backed multifamily mortgage loan – that is, loans for 1-4 unit single-family residential properties, and loans for multifamily residential properties of 5 or more units, if the loan is secured by a first or subordinate lien and the loan is:

- Purchased or securitized by Freddie Mac or Fannie Mae, or
- Made, insured, guaranteed, supplemented or assisted in any way by a federal agency, or in connection with a federal housing or urban development program.

Section 4024 also prohibits the charging of late fees, penalties or other charges to the tenant related to any such covered nonpayment of rent.

FHA

On March 27, FHA issued [Mortgagee Letter 20-05](#) regarding temporary policies for verification of employment and appraisals:

On March 27, FHA issued its updated [COVID-19 Questions and Answers](#).

GINNIE MAE

On March 27, announced that, in order to address the issues facing servicers dealing with expected high levels of borrower forbearance, it will establish a liquidity facility.

If we can be of assistance and to discuss various options and specific situations, please feel free to contact any of the Buchalter Mortgage Banking Industry Group Attorneys below.

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