



## **Options for Homeowners Affected by COVID-19**

### **Frequently Asked Questions**

**My family has been affected by COVID-19 and we can no longer afford to make our mortgage payments. What are our options?**

Under both the federal CARES Act and New York State Banking Law 9-X your lender or mortgage servicer must offer you a forbearance.

**What is a forbearance?**

During a forbearance your lender or mortgage servicer allows you to suspend or reduce your regular mortgage payments for a limited period of time. No late fees can be charged during a forbearance and neither can the lender send negative reports to credit reporting agencies. However, forbearance does not forgive or waive your mortgage payments and the lender may recoup the suspended payments at a future time.

**For how many months does the lender have to grant me a forbearance?**

Under both federal and state laws, the lender must provide you with a forbearance for up to six (6) months which can be renewed for another six (6) months if your Covid-19 related hardship continues.

**I was behind on my mortgage payments before being affected by Covid-19. Am I still eligible for a forbearance?**

Yes, even if you were delinquent with your mortgage payments, were in the process of applying for a loan modification or had entered into a trial payment period, the lender must offer you a forbearance.

**How do I apply for forbearance?**

Contact your lender either by phone, or preferably on-line so you have a record of your request. If your mortgage is federally-backed you merely have to attest that you or someone in your family has been affected by Covid-19. If your mortgage is state-regulated you need to ask your lender what if any documentation is required.

## **How do I know which kind of mortgage I have?**

About 70% of all mortgages are federally-backed which includes FHA, VA, Fannie Mae and Freddie Mac mortgages. To check whether your mortgage is backed by **Fannie Mae** or **Freddie Mac**, visit the following websites and be prepared to provide the borrower's name, address and last 4 digits of the Social Security number.

**Fannie Mae:** <https://www.knowyouroptions.com/loanlookup>

**Freddie Mac:** <https://www3.freddiemac.com/loanlookup>

VA and FHA mortgages are identified by the language of the mortgage.

## **New York State Regulated Mortgages**

Mortgages that are not federally-backed are regulated by the New York State Department of Financial Services (DFS). In June of 2020, the Governor signed into law the forbearance bill (Banking Law 9X) which similar to federally-backed mortgages provides relief to homeowners with state-regulated mortgages, requiring lenders to grant forbearance for up to 6 (six) months, renewable for another 6 (six) months.

## **For how long is forbearance relief available?**

If your mortgage is federally-backed, you can apply for forbearance until February 28, 2021 (that date may be further extended). If your mortgage is state-regulated, the lender must accept applications for forbearance until the COVID-19 state emergency is terminated by the Governor.

## **What happens at the end of the forbearance period if my mortgage is federally-backed?**

Your servicer must contact you within 30 days of the end of the forbearance period to discuss your options. If you are able to resume your mortgage payments and **were current** as of March 1, 2020, the suspended payments will be deferred as a non-interest bearing balance due when your loan matures or you refinance or sell the property. For FHA mortgages the deferred balance is called the COVID-19 National Emergency Standalone Partial Claim. If you were not current as of March 1, 2020 or you are **not** able to resume your payments, the servicer must evaluate you for a loan modification.

## **What are my options if my mortgage is state-regulated?**

The newly enacted state law requires the lender to offer the following options:

- Extending the loan term by the duration of the forbearance
- Allowing the borrower to enter into repayment plan that would stretch repayment of the suspended amounts over the term of the mortgage
- Allow the borrower to apply for a loan modification

- If a loan modification is not possible, deferring the suspended payments as a non-interest bearing balloon due at maturity of the loan, or refinance, or sale of the property.

**Note: No lender can demand the suspended payments to be repaid as a lump sum!**

**I was behind on my mortgage before COVID-19. Can the lender foreclose on my home?**

The recently enacted “COVID-19 Emergency Evictions and Foreclosure Prevention Act of 2020” which took effect December 28, 2020, stays all pending foreclosure actions for 60 days, until February 27, 2021. This includes foreclosures for property tax liens. Eligible owners include owners with up to ten units as long as one is owner-occupied. Condo units and cooperative shares are included.

**What happens after the 60-day stay?**

If the homeowner submits to the lender a “Hardship Declaration” the foreclosure action is further stayed until May 1, 2021. The Hardship Declaration can be found on the Supreme Court’s website and must be mailed to each defendant homeowner in a pending action, either by the court or the lender.

**Note:** If you or someone in your family or household suffered a Covid-19-related hardship such as loss of income, including rental income, or you had to care for someone in your household, it is important to return the form to either the lender or the court.

**What happens after May 1, 2021?**

Unless you were able to obtain mortgage relief such as forbearance or a loan modification, you may be liable for all missed payments and fees, resulting in a money judgment or foreclosure.

**For further information or assistance, call our helplines:**

**Queens: (718) 298-8979**

**Bronx: (646) 340 1908**

**[www.legalaidnyc.org](http://www.legalaidnyc.org)**