



STATE OF CALIFORNIA

Department of Financial Protection and Innovation

GOVERNOR **Gavin Newsom** · COMMISSIONER **Manuel P. Alvarez**

MEMORANDUM

To: Licensees under the Banking Law, Credit Union Law, California Financing Law, and Residential Mortgage Lending Act

Date: April 9, 2021

From: Manuel P. Alvarez, Commissioner of Financial Protection and Innovation

Subject: Guidance to Financial Institutions and Mortgage Lenders and Servicers During the COVID-19 Pandemic

This guidance is directed to mortgage servicers in California whose customers may be experiencing continued financial hardship as a result of the COVID-19 pandemic. To the extent it is inconsistent, this guidance modifies the Guidance for Lenders During the COVID-19 Pandemic and the Guidance to Financial Institutions During the COVID-19 Pandemic, both issued by the Business, Consumer Services and Housing Agency on March 22, 2020. The purpose of this guidance is to: (1) remind mortgage lenders and servicers of requirements under the COVID-19 Small Landlord and Homeowner Relief Act of 2020 (“Homeowner Relief Act”); and (2) encourage mortgage lenders and servicers to work with affected customers and communities to avoid foreclosures.

Background

On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency as a result of the COVID-19 pandemic. One year into the pandemic, many Californians continue to experience loss of income and other financial hardships due to ongoing or intermittent business closures, lost hours or wages, and layoffs. Some California homeowners still find it difficult to make mortgage payments and require financial relief. Therefore, the Commissioner of Financial Protection and Innovation issues this guidance to licensees under the Banking Law, Credit Union Law, California Financing Law, and Residential Mortgage Lending Act.

State Law Protection for Homeowners

On August 31, 2020, Governor Newsom signed into law the Homeowner Relief Act. The Homeowner Relief Act provides protection to borrowers who were current on their mortgage payments as of February 1, 2020 and are experiencing financial hardship due to the COVID-19 emergency. Under the Homeowner Relief Act, as extended by SB 91, if a mortgage servicer denies a forbearance request from a borrower between August 31, 2020 and September 1, 2021, the mortgage servicer must provide written notice to the borrower that sets forth the

specific reasons the forbearance was not provided. If the written notice cites a defect in the borrower's request, including an incomplete application or missing information, the mortgage servicer must:

- (1) Specifically identify any curable defect in the written notice,
- (2) Provide 21 days from the mailing date of the written notice for the borrower to cure any identified defect,
- (3) Accept receipt of the borrower's revised request for forbearance before the 21-day period lapses, and
- (4) Respond to the borrower's revised request within five business days of receipt of the revised request.

These protections apply to owner-occupied residential properties as well as tenant-occupied properties with four or fewer units.

The Homeowner Relief Act also requires mortgage servicers to comply with applicable federal guidance regarding borrower options following a COVID-19-related forbearance. The primary protections available to homeowners with federally-backed mortgages include COVID-19 hardship forbearance and a moratorium on foreclosures. Servicers of federally-backed mortgages should comply with guidance provided by the Federal National Mortgage Association ("Fannie Mae"), the Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Federal Housing Administration of the U.S. Department of Housing and Urban Development ("HUD/FHA"), the U.S. Department of Veterans Affairs ("VA"), and the Rural Development division of the U.S. Department of Agriculture. For non-federally-backed loans, the Homeowner Relief Act provides that mortgage servicers that review and explore solutions for customers, consistent with guidance from the above-listed federal agencies, shall be deemed to be in compliance with California law.

Solutions to Avoid Foreclosure and Regulatory Relief

Consistent with the Homeowner Relief Act and federal guidance for homeowners experiencing financial hardship due to COVID-19, the Commissioner encourages mortgage servicers to work with their customers and propose solutions that will protect homeowners from the threat of residential foreclosure. For example, mortgage servicers may offer customers payment accommodations, such as payment deferrals or due date extensions, loan modifications to modify the rate and term of the mortgage, or loss mitigation options described in [HUD/FHA's updated guidance](#).

The Commissioner reiterates that prudent efforts to modify or restructure loans due to a borrower's COVID-19-related financial hardship will not be criticized by examiners. Furthermore, the Commissioner acknowledges that some licensees may experience an increase

in delinquent or nonperforming loans and troubled debt restructures due to COVID-19's financial impact on borrowers. The Commissioner will consider such increases in adversely classified assets within the context of the COVID-19 pandemic, and supervisory responses will be measured and appropriate. The Commissioner supports and will not criticize efforts to accommodate customers in a safe and sound manner.

This guidance does not modify any existing law or regulation.