



**TENANT PROTECTIONS TIED TO
MULTIFAMILY MORTGAGE
COVID-19 FORBEARANCES**

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CARES ACT MULTIFAMILY MORTGAGE FORBEARANCES

- CARES Act, Sec. 4023
 - Up to 90 days of forbearance for multifamily borrower
 - Forbearance plans available starting 3/27/20 through the earlier of: end of the national emergency or 12/31/20
- Tenant protections during the forbearance period:
 - No evictions for non-payment of rent or other fees/charges
 - No late fees or other charges or penalties for late payment of rent
 - No notices to vacate
- After the forbearance period ends, must provide at least 30 days' notice to vacate

AGENCY DIRECTIVES RE: MULTIFAMILY MORTGAGE FORBEARANCES - HUD

- ❑ [HUD Notice H 20-07](#) (at pp. 2-4)
 - ❑ Permits extended or amended forbearance (*i.e.*, beyond initial 90 days) with HUD approval.
 - ❑ Any new, extended or amended forbearance after 7/1/20 must comply with CARES Act tenant protections PLUS:
 - No lump sum repayment requirement for missed rent at the end of the forbearance period
 - Must allow tenants to make up missed rent “over a *reasonable* time as *determined in the sole discretion of the borrower*”
 - No late fees or penalties for late or missed rent until the owner/borrower has repaid all past due amounts
 - Must provide at least 30 days’ notice to vacate until the owner/borrower is current on the loan
- ❑ CARES Act initial implementation notice: [HUD ML 20-09](#)

AGENCY DIRECTIVES RE: MULTIFAMILY MORTGAGE FORBEARANCES – Fannie Mae & Freddie Mac

- ❑ Federal Housing Finance Agency [announcement](#)
 - ❑ Permits extended forbearance of up to 3 months beyond the initial CARES Act forbearance, for a total of up to 6 months.
 - ❑ Permits lenders to offer owner-borrowers repayment plans up to 24 mos.
 - ❑ Requires that for any new or extended forbearance after 6/29/20, the owner-borrower comply with CARES Act eviction and notice restrictions (Sec. 4023) during forbearance PLUS:
 - No lump sum repayment requirement for missed rent at the end of the forbearance period
 - Must allow tenants flexibility to repay missed rent
 - No late fees or penalties for late or missed rent until the owner/borrower has repaid all past due amounts
 - Must provide at least 30 days' notice to vacate until the owner/borrower is current on the loan

AGENCY DIRECTIVES RE: MULTIFAMILY MORTGAGE FORBEARANCES – USDA-RD

- ❑ Email to stakeholders – nothing accessible on website
 - ❑ No extension of forbearance (called a “moratorium”) beyond 90 days total
 - ❑ Deadline for owner-borrower to request = end of emergency or 12/20/20 (probably the earlier of those)
 - ❑ No additional tenant protections beyond those in the CARES Act
 - ❑ No protection beyond expiration of forbearance (*i.e.*, during owner-borrower’s repayment period)
 - ❑ Does not require owner-borrowers to enter into repayment plans with tenants.

- ❖ Insufficient tenant notice and access to info
 - ❖ HUD and GSEs require notice of no evictions for non-payment, but nothing re. other protections
 - ❖ No requirement that notice be written or re. timing
 - ❖ No mention on tenant-facing resources on agency websites
 - ❖ MF look-up tools do not yet include forbearance status or timelines
- ❖ Lack of enforcement mechanisms to deter non-compliance
- ❖ Discrepancies between notices and some model forbearance documents
- ❖ Potential disputes related to type of forbearance and/or timing of forbearance start and end dates