

Frequently Asked Mortgage Questions for Floridians Facing Economic Hardship Because of COVID 19

As a result of the COVID-19 pandemic, millions of Floridians are now unemployed and facing financial uncertainty. The Attorney General has put together this list of resources available to assist Floridians in these tough times.

Nothing contained herein should be construed as legal advice or establishing a lawyer-client relationship. The information below is intended to provide general, summary information for use by Floridians. Please consult with a lawyer if you have legal questions about your specific situation. We will periodically update these frequently asked questions to provide Floridians with as much information as we can.

MORTGAGE DEFAULTS AND FORECLOSURES

We have received inquiries regarding mortgage defaults, missed mortgage payments, and foreclosures. If you are having issues with your mortgage, your first call should be to your bank or mortgage servicer to tell them about your situation and attempt to work out a resolution. Many banks and servicers have programs that are available to assist borrowers, but you need to reach out in order to take advantage of these programs. If that fails, the following answers and links to resources may provide you with additional information:

State Resources

Q. Has the State taken any action with respect to protecting homeowners' ability to remain in their homes during the COVID 19 epidemic?

A. Yes. On April 2, 2020, Governor DeSantis issued an Executive Order, 20-94, and the Florida Supreme Court has entered several orders that affect foreclosures and evictions on residences. Subsequent Executive Orders 20-121, 20-137, 20-159, 20-180, and 20-211 have extended the foreclosure and eviction moratorium for Floridians adversely affected by the COVID-19 emergency through September 30, 2020. Please note that the foreclosure and eviction moratoriums in the Executive Orders referenced above have expired effective October 1, 2020.

Q. What do the Governor's Executive Orders do?

A. The April 2, 2020 Executive Order, 20-94, tolls any statute providing for a foreclosure or eviction cause of action under Florida law for 45 days from the date of the Order including any extension. A copy of Executive Order, 20-94, can be found [here](#). Executive Orders 20-121, 20-137, 20-159, 20-180, and 20-211 extend the foreclosure and eviction moratorium through September 30, 2020, expiring on October 1, 2020. A copy of Executive Order, 20-121, can be found [here](#). A copy of Executive Order, 20-137, can be found [here](#). A copy of Executive Order 20-159 can be found [here](#). A copy of Executive Order 20-180 can be found [here](#). A copy of Executive Order 20-211 can be found [here](#). Executive Orders 20-180 also amended the previous Orders, limiting the foreclosure and eviction moratoriums to the suspension of the final action at the conclusion of a foreclosure or eviction proceeding when those proceedings arise from non-payment by a Floridian due to the COVID-19 emergency. Under Executive Order 20-180 and the most recent 20-211, this means that a new foreclosure or eviction action may be filed and both new filings and pending cases may proceed in the court with hearings and other proceedings, but the final sales or eviction is suspended through September 30, 2020. As of October 1, 2020, these foreclosure and eviction moratoriums have expired.

Eviction Moratoriums

The Centers for Disease Control and Prevention (CDC) recently issued an Order effective April 1, 2021 through June 30, 2021, which extends and modifies prior Eviction Moratorium Orders issued to prevent the spread of Covid-19. The current CDC Order can be reviewed [here](#).

Q. Who is covered by the CDC Order?

A. covered person means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that:

- (1) The individual has used best efforts to obtain all available government assistance for rent or housing;
- (2) The individual either (i) earned no more than \$99,000 (or \$198,000 if filing jointly) in Calendar Year 2020, or expects to earn no more than

\$99,000 in annual income for calendar year 2021 (or no more than \$198,000 if filing a joint tax return), (ii) was not required to report any income in 2020 to the U.S. Internal Revenue Service, or (iii) received an economic Impact Payment (stimulus check);

(3) The individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a layoff, or extraordinary out-of-pocket medical expenses;

(4) The individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and

(5) Eviction would likely render the individual homeless or force the individual to move into and live in close quarters in a new congregate or shared living setting, because the individual has no other available housing options.

Q. How do I protect my rights under the CDC Order?

A. To qualify as a covered person eligible for the protections of this Order, a tenant, lessee, or resident of a residential property must provide a completed and signed copy of a declaration with the elements listed in the definition of "covered persons" to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed.

Tenants, lessees, or residents of a residential property may use any written document in place of the declaration form if it includes the required information as in the form, is signed, and includes a perjury statement.

Tenants, lessees, or residents of a residential property can use a form translated into other languages.

A signed declaration submitted under previous [CDC] orders remains valid notwithstanding the issuance of this extended and modified Order, and covered persons do not need to submit a new declaration under this Order.

The CDC created a standardized Declaration Form that can be downloaded [here](#).

Q. Do I still owe the rent amount?

A. This Order is a temporary eviction moratorium to prevent the further spread of Covid-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any obligation that the individual may have under a tenancy, lease, or similar contract.

Q. Can the Landlord or owner ask the Court to evict for other reasons?

A. Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents; (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including the non-payment or late payment of fees, penalties or interest).

Q. Can you be evicted for having Covid-19?

A. Individuals who are confirmed to have, who have been exposed to, or who might have Covid-19 and take reasonable precautions to not spread the disease may not be evicted on grounds that they may pose a health or safety threat to other residents.

Q. What does the Florida Supreme Court's Order do?

A. Through multiple orders the Florida Supreme Court suspended the requirement that Clerks of Court issue writs of possession “forthwith” from March 24, 2020 through July 2, 2020 and has limited many court proceedings. A copy of the latest Florida Supreme Court Emergency Orders can be found [HERE](#). Please consult a lawyer as to what effect the Supreme Court's Orders may have in your situation.

Q. I want to complain about how I am being treated in connection with my default. Who do I contact in state government?

A. It depends on your complaint. If you wish to file a complaint against a mortgage broker relating to the origination of your loan, the complaint should be filed with the [Florida Office of Financial Regulation](#). If you want to file a complaint against your mortgage servicer or a mortgage foreclosure rescue firm, then you should do so with the Attorney General's Office [online](#) or toll-free at 1-

866-9-NO-SCAM. You may also file a complaint with the Florida Office of Financial Regulation [here](#).

Q. What other resources does the Florida Attorney General’s Office have regarding mortgage defaults and foreclosure?

A. The Florida Attorney General’s website contains general information and links that are designed to help borrowers struggling with their mortgages. The webpage can be found [here](#).

Federal Resources

Q. If I have difficulty reaching or working with my bank or servicer, what should I do?

A. If you have difficulty reaching or working with your servicer, call 1-888-995-HOPE for free personalized advice from housing counseling agencies certified by the U.S. Department of Housing and Urban Development (HUD). This national hotline – open 24/7 – is operated by the Homeownership Preservation Foundation, a nonprofit member of the HOPE NOW Alliance of mortgage industry members and HUD-certified counseling agencies. For free guidance online, visit www.hopenow.com.

In addition, if you wish to file a complaint against your lender or mortgage servicer, you may also contact the Consumer Financial Protection Bureau (CFPB), the federal agency tasked with reviewing complaints about mortgages, credit cards and other consumer financial products and services. For more information or to file a complaint, visit www.consumerfinance.gov or call toll-free at 1-855-411-2372.

Q. Has the Federal government taken any action specific to the COVID- 19 epidemic to provide for homeowner assistance?

A. Yes. On March 27, 2020, President Trump signed the CARES Act into law, and it provides homeowner assistance to some homeowners. The Consumer Financial Protection Bureau, Federal Housing Finance Agency, and US Department of Housing and Urban Development have launched a mortgage and housing assistance webpage located [here](#), which provides information on your options under the CARES Act.

Q. What homeowners are helped by the CARES Act?

A. The CARES Act provides assistance to homeowners with “federally backed mortgages.” Federally backed mortgages are defined as mortgages for single-family homes that are:

- purchased or securitized by Fannie Mae or Freddie Mac;
- insured by the Federal Housing Administration (FHA), including reverse mortgages or Home Equity Conversion Mortgages (HECMs);
- guaranteed, directly provided by, or insured by the Department of Veterans Affairs (VA);
- guaranteed, directly provided by, or insured by the Department of Agriculture (USDA); or
- guaranteed under HUD’s Native American or Native Hawaiian Home Loan Guarantee programs.

Q. How do I find out if my mortgage is “federally backed”?

A. There is a good chance that your mortgage is federally backed; approximately 70 percent of mortgages in the current market are. If you are not sure whether you qualify for assistance under the CARES Act, you should reach out to your mortgage servicer. Your mortgage servicer is the company that you send your mortgage payments to each month. If you are unsure who your mortgage servicer is, you can access the Mortgage Electronic Registration System’s mortgage servicer lookup tool [here](#).

Fannie Mae and Freddie Mac also offer look up tools online to identify whether Fannie or Freddie owns your mortgage. Fannie Mae’s lookup tool can be accessed [here](#); Freddie Mac’s lookup tool can be accessed [here](#).

The Consumer Financial Protection Bureau also provides information on how to identify your loan owner or servicer [here](#).

Q. What if I do not have a “federally backed mortgage”?

A. The most important thing for all impacted homeowners to do is to reach out to their mortgage servicers regardless of whether the CARES Act applies. Some lenders are voluntarily providing programs similar or identical to those available for federally backed mortgages, so it is still possible that homeowners without federally backed mortgages will have access to similar relief.

Q. What kind of assistance is available for eligible homeowners under the

CARES Act and Federal Agency regulations?

A. The most important feature is that there is a foreclosure and eviction moratorium in effect from March 18, 2020 through June 30, 2021 for borrowers with loans backed by FHFA, Fannie Mae, Freddie Mac, FHA, USDA and VA. This includes the initiation and continuation of new foreclosures as well as evictions for real estate owned properties acquired through foreclosure or deed-in-lieu of foreclosure transactions. The CARES act also provided the right to request and receive forbearance on mortgage payments for up to 6 months, with the option to extend for an additional 6 months (up to a maximum of one year). Those forbearance periods as well as enrollment periods have been extended. For borrowers who have a mortgage backed by FHA, USDA or VA the forbearance enrollment period is extended through June 30, 2021, and eligible borrowers can request a total of 18 months forbearance. Borrowers who have a mortgage backed by FHFA (Freddie Mac or Fannie Mae) and who were enrolled as of February 28, 2021, may request a three months forbearance extension.

Q. Is there currently an eviction moratorium on properties securing FHA loans?

A. Yes. In reference to properties securing FHA Loans the current Mortgagee letter issued on February 16, 2021 by the U.S. Department of Housing and Urban development (HUD) extends the moratorium on foreclosure and eviction through June 30, 2021. The HUD Mortgagee letter can be reviewed [here](#) and states in part:

FHA-insured Single-Family Mortgages, excluding vacant or abandoned Properties, are subject to an extension to the moratorium on foreclosure through June 30, 2021. The moratorium applies to the initiation of foreclosures and to foreclosures in process.

Evictions of persons from Properties securing FHA-insured Single-Family Mortgages, excluding actions to evict occupants of legally vacant or abandoned Properties, are also suspended through June 30, 2021.

Deadlines for the first legal action and Reasonable Diligence Time Frame are extended to 180 days from the date of expiration of this moratorium for FHA insured Single Family Mortgages, except for FHA-insured Mortgages secured by vacant or abandoned Properties.

Q. Is there currently a foreclosure and eviction moratorium on properties securing Fannie Mae and Freddie Mac loans?

A. Yes. According to the February 25, 2021 Federal Housing Finance Agency (FHFA) announcement Fannie Mae and Freddie Mac (the Enterprises) are extending the moratoriums on single-family foreclosures and real estate owned (REO) evictions until June 30, 2021. The FHFA announcement can be reviewed [here](#).

Q. Is there currently a foreclosure and eviction moratorium on properties securing U.S. Department of Agriculture (USDA) Rural Development loans?

A. Yes. The USDA February 2021 announcement extends the moratorium on single family foreclosures and evictions through June 30, 2021. The announcement can be reviewed [here](#).

Q. Is there currently a VA foreclosure and eviction moratorium on properties securing VA loans?

A. The Department of Veterans Affairs (VA) will extend the existing moratorium on evictions and foreclosures, as well as extend VA loan forbearance requests to June 30, because of COVID-19. The VA announcement can be reviewed [here](#).

Q. If I seek forbearance, does that forgive part of my mortgage?

A. No. Forbearance is not a forgiveness of debt. It gives a borrower time to work out a loan modification or repayment plan with their servicer that requires borrowers to resume making payments at the end of the forbearance period and establishes a payment plan for all missed payments. Homeowners should ask their servicers about the types of modifications and plans available and seek out HUD housing counseling assistance as appropriate. Borrowers with loans backed by Fannie Mae or Freddie Mac may be eligible to defer missed payments during a forbearance plan if the borrower is able to return to making their normal monthly payments and meets other eligibility requirements. If eligible, the forbearance available for homeowners impacted by COVID-19 allows borrowers to defer missed payments to the back of the loan period or when the home is sold, refinanced, or the mortgage and note matures. Fannie Mae and Freddie Mac have issued the following bulletins with information on eligibility for a payment deferral: [Fannie Mae Bulletin](#) and [Freddie Mac Bulletin](#). The deadline and criteria for borrowers to request a covid-19 forbearance from mortgage servicers depends

on which entity backs their respective mortgage. The current announced deadlines to request a mortgage forbearance are as follows:

- FHA – Deadline June 30, 2021
- VA – Deadline June 30, 2021
- USDA – Deadline June 30, 2021
- Fannie Mae – February 28, 2021
- Freddie Mac – February 28, 2021

Q. What do I need to do to access this assistance?

A. Contact your servicer to request a forbearance. You will have to attest to financial hardship caused directly or indirectly by COVID-19 to receive a forbearance. For additional assistance with questions relating to forbearance you may wish to consult with a HUD-approved housing counselor. You can look up a HUD-approved housing counseling agencies in Florida [here](#).

Q. My servicer does not call me back or is continuing my foreclosure, what am I supposed to do?

A. If a servicer is unresponsive and/or violates the CARES Act, you can contact the relevant federal agency or entity that is backing the mortgage or seek legal assistance. You may want to submit a complaint with the Consumer Financial Protection Bureau through their complaint webpage, located [here](#). You can also call CFPB at (855) 411-2372. Finally, you may file a complaint against your servicer with the Attorney General’s Office online at www.MyFloridaLegal.com or toll-free at 1-866-9-NO-SCAM.

Q. I am receiving calls from third parties claiming to assist borrowers facing foreclosure. Should I utilize such a third party?

A. Beware of scams, including anyone seeking to charge you for accessing the foreclosure relief provided under the CARES Act. If your servicer is unresponsive and/or continues your foreclosure in violation of the law, contact the relevant federal agency, the entity that is backing the mortgage, the Florida Attorney General’s Office, or seek legal assistance.

Q. But, the third party has offered to help me obtain forbearance?

A. Beware of scams, the CARES Act provides eligible borrowers the right to request and receive forbearance on their mortgage payments, as well as the

option to discontinue the forbearance at any time. Contact your mortgage servicer to determine whether your mortgage is eligible for forbearance under the law. You do not need to pay any fees if you are eligible to receive these benefits.

Q. What about third parties offering struggling borrowers assistance in modifying the terms of their mortgage?

A. Beware of anyone charging you in advance. In most circumstances, it is unlawful to charge fees in advance for a mortgage modification. Contact your servicer to inquire about options for modifying the terms of your mortgage.

Other Resources

It is important that you continue to take any and all steps to protect your legal interests, which may include your need to consult a private attorney. A private attorney can provide the legal advice which our office may not by law provide to individuals. If you need legal help but cannot afford a private lawyer, the Florida Courts Administrator has a [comprehensive list](#) of providers and local legal aid websites that may be able to help you.

You may also find an attorney through the Florida Bar Association at www.floridabar.org or by calling their Legal Referral Service toll-free at 1-800-342-8011. Verify your attorney is in good standing and has no disciplinary actions against them. If you cannot afford an attorney, you may be eligible for low-cost or pro bono assistance through a legal aid office in your area. Finally, you may also seek legal help through Florida Legal Services at www.floridalegal.org.

Information on finding affordable housing and rentals in Florida is available from the Florida Housing Finance Corporation [here](#).