Overview and Implications for Individual Mortgage Loans

In one short month—from June 24 to July 23, 2021—the White House and federal agencies have announced fourteen separate actions to help mortgage borrowers facing financial hardship from the pandemic. The digital version of NCLC’s Mortgage Servicing and Loan Modifications § 12.3 [1] is a detailed analysis of special rights available to homeowners because of the pandemic, with separate discussions of protections provided by the CARES Act, Fannie Mae, Freddie Mac, FHA, the VA, USDA, and state law. Those sections of Mortgage Servicing and Loan Modifications § 12.3 will soon be updated to reflect the fourteen recent federal actions. In the interim, this article briefly describes each of the fourteen, with links to each of the federal actions. The article also includes links to Mortgage Servicing and Loan Modifications where existing protections are described and where the recent changes to those protections will soon be added.

The first step in determining the implications of these changes to a specific homeowner is to determine the investor involved with the mortgage loan—Fannie Mae, Freddie Mac, Federal Housing Administration, Department of Veterans Affairs, or the United States Department of Agriculture (Rural Housing Service). For a quick guide to determining the applicable investor, click here [2]. Some mortgage loans do not involve any of those investors, but instead are held in lender portfolios or in private label securities (PLS). See NCLC’s Mortgage Servicing and Loan Modifications § 12.3.10 [3].

Although the agency policies described below often appear uniform, it is critical to review the applicable investor policy because the details for updates for each investor are different. With respect to forbearance plans, which are temporary suspensions of the duty to make full mortgage payments, FHA, VA, and USDA set a September 30, 2021, deadline for borrowers to start forbearance plans, but they each have different policies in place for forbearance, including how long the plans can last. FHA, VA, and USDA also released updated loan modification programs that allow eligible borrowers to bring their loans current through a targeted reduction of the monthly payment. While these programs share a goal, there are agency-specific eligibility criteria and systems for reducing payments.

1. Extension of VA, FHA, USDA Foreclosure Moratoriums and Access to Initial Forbearance (June 24, 2021)

A June 24, 2021, White House Fact Sheet [4] extends the foreclosure moratoria for mortgages backed by the VA, FHA, and USDA until July 31, 2021. It also extends the deadline for VA, FHA, and USDA borrowers to access initial forbearance periods to September 30, 2021, subject to individual agency rules discussed infra. For information on the CARES Act foreclosure moratorium, see NCLC’s Mortgage Servicing and Loan Modifications § 12.3.3.6 [5].

2. Fannie Mae and Freddie Mac Foreclosure Moratoriums Extended (June 24, 2021)

A June 24, 2021, Federal Housing Finance Administration (FHFA) Press Release [6] extends the foreclosure moratoriums on Fannie Mae and Freddie Mac mortgages to July 31, 2021. For information on the Fannie Mae and Freddie Mac foreclosure moratoriums, see NCLC’s Mortgage Servicing and Loan Modifications §§ 12.3.4.2 [7], 12.3.5.1 [8].

3. Delay in New Standards for Documenting Financial Circumstances for FHA-HAMP (June 24, 2021)

A June 24, 2021, FHA Mortgagee Letter 2021-14 [9] delays the effective date of revised Handbook 4000.1 from August 17, 2021, to March 31, 2022. The delayed sections of the handbook include standards for documenting borrower financial circumstances in connection with FHA-HAMP. FHA-HAMP is the standard set of foreclosure alternatives for FHA-insured borrowers facing financial hardship. While borrowers with COVID-19 hardships may be eligible for relief specific to the pandemic, borrowers may still need to access FHA-HAMP depending on their circumstances. For information on FHA-HAMP and the pandemic, see NCLC’s Mortgage Servicing and Loan Modifications § 12.3.6.4.5 [10].

4. FHA Actions to Extend Foreclosure Moratorium and Forbearance Access, and to Create an Advance Loan Modification (June 25, 2021)
A June 25, 2021, FHA Mortgagee Letter 2021-15 [11] extends the foreclosure moratorium for FHA loans to July 31, 2021. The deadline for accessing initial forbearance is extended to September 30, 2021. However, the letter states that borrowers accessing initial forbearance after June 30, 2021, are limited to one six-month term. Advocates led by NCLC have urged FHA to increase the maximum length of plans starting after June 30, 2021, to twelve months in line with other federal agencies. To determine the current maximum length of forbearance, see the FHA-developed chart found in FHA Mortgagee Letter 2021-15, at 6.

The letter also announces an Advance Loan Modification (ALM) providing streamlined modification for borrowers whose principal and interest payments can be reduced by 25% when the ALM’s modification terms are applied. For information on FHA protections related to the pandemic, see NCLC’s Mortgage Servicing and Loan Modifications §12.3.6 [12].

5. VA Actions to Extend Foreclosure Moratorium and Forbearance Access (June 25, 2021)

A June 25, 2021, VA Circular 26-21-10 [13] extends the foreclosure moratorium for VA loans to July 31, 2021. The deadline for accessing initial forbearance is extended to September 30, 2021. Unlike the FHA letter of the same date, it does not state that borrowers accessing initial forbearance plans after June 30, 2021, are limited to one six-month term. For information on VA protections related to the pandemic, see NCLC’s Mortgage Servicing and Loan Modifications §12.3.7 [14].

6. USDA Actions to Extend Foreclosure Moratorium and Forbearance Access on Direct Loans (June 25, 2021)

A June 25, 2021, USDA Bulletin on Direct Loans [15] extends the foreclosure moratorium for loans extended directly by USDA to July 31, 2021. The deadline for accessing initial forbearance is extended to September 30, 2021. The bulletin specifically allows twelve-month terms to borrowers accessing forbearance plans after June 30, 2021. For information on protections for USDA Direct Loans related to the pandemic, see NCLC’s Mortgage Servicing and Loan Modifications §12.3.8 [16].

7. USDA Actions to Extend Foreclosure Moratorium and Forbearance Access on USDA Guaranteed Loans (June 25, 2021)

A June 25, 2021, USDA Bulletin on Guaranteed Loans [17] extends the foreclosure moratorium for loans extended directly by USDA to July 31, 2021. The deadline for accessing initial forbearance is extended to September 30, 2021. The bulletin specifically allows twelve-month terms to borrowers accessing forbearance plans after June 30, 2021. For information on protections for USDA Guaranteed Loans related to the pandemic, see NCLC’s Mortgage Servicing and Loan Modifications §12.3.8 [16].

8. CFPB Reg. X Amendments re Servicer Procedural Safeguards, Streamlined Loan Mods, Early Intervention Requirements (June 28, 2020)


The final rule, effective August 31, 2021, establishes temporary procedural safeguards to help ensure that borrowers have a meaningful opportunity to be reviewed for loss mitigation before the servicer can make the first notice or filing required for foreclosure on certain mortgages. This provision sunsets after December 31, 2021. In addition, the final rule permits mortgage servicers to offer certain loan modifications made available to borrowers experiencing a COVID-19- related hardship based on the evaluation of an incomplete application. The Bureau is also finalizing certain temporary amendments to the early intervention and reasonable diligence obligations that Regulation X imposes on mortgage servicers.
For more on Regulation X as it applies to servicers, loan modifications, and foreclosures, see NCLC’s Mortgage Servicing and Loan Modifications Chapter 3 [21], including scope, remedies, and defenses. Existing provisions dealing with a special COVID-19 exception for incomplete applications are discussed at § 3.8.2.10.4 [22]. Early intervention requirements are examined at § 3.7 [23]. Loss mitigation procedures and required reviews are detailed at § 3.8 [24].

9. Fannie Mae and Freddie Mac New Foreclosure Limits Until August 31, 2021 (June 29, 2021)

A June 29, 2021, FHFA Press Release [25] bridges the gap for Fannie Mae and Freddie Mac mortgage loans between the July 31, 2021 end of the foreclosure moratorium and the August 31 effective date for the CFPB Regulation X amendments discussed at # 8, supra. Fannie Mae and Freddie Mac servicers are not able to proceed with foreclosure actions that the CFPB rule would prevent upon the rule’s effective date.

10. Market Interest Rates for Fannie Mae and Freddie Mac Flex Modifications (June 30, 2021)

A June 30, 2021, FHFA Press Release [26] provides new guidelines for Flex Modifications that allow Fannie Mae and Freddie Mac borrowers with loan-to-value (LTV) ratios at or below 80% to receive market interest rates in their loan modifications. Prior to this FHFA decision, borrowers with significant equity in their property were not eligible to receive reduced modification interest rates. Fannie Mae and Freddie Mac Flex Modification options are considered at NCLC’s Mortgage Servicing and Loan Modifications §§ 12.3.4.3.5 [27], 12.3.5.2.4 [28].


On July 20, 2021, the FHA released a revised version of FHA Handbook 400.1 incorporating the changes in FHA Mortgage Letter 2021-15, described at # 4, supra.

12. New Loan Modification Options for Borrowers with VA Mortgages (July 23, 2021)

On July 23, 2021, the VA issued VA Circular 26-21-13 [29], including Exhibit A [30] and Exhibit B [31], that revised foreclosure alternatives for VA borrowers with COVID-19 hardships. The circular divides borrowers into three categories for determining loss mitigation options:

1. Borrowers who can afford to restart their pre-hardship mortgage payments and can pay their arrears;
2. Borrowers who can afford to restart their pre-hardship mortgage payments, but need help to cover arrears; and
3. Borrowers who cannot afford their pre-hardship payment.

For borrowers who need monthly payment relief, the circular created a loan modification program targeting a 20% reduction of borrowers’ principal and interest payment through term extension, interest rate reduction, and the possibility of VA purchasing of the debt. Further relief is possible based on a financial evaluation. The existing VA loan modification options related to the pandemic are found at NCLC’s Mortgage Servicing and Loan Modifications § 12.3.7 [14].


A July 23, 2021, USDA Bulletin [32] revises the natural disasters section of Handbook HB-1-3555, which includes a section on COVID-19 relief and provides chart of eligibility for COVID-19 forbearances. The revised handbook includes a new modification program for COVID-19 hardships that targets a 20% reduction in principal and interest payment. The new modification is only offered after the servicer considers standard relief options. The new modification may combine interest
rate reduction, term extension to 480 months, and Mortgage Recovery Advances. These options are available until December 31, 2022. The existing USDA loan modification options related to the pandemic are found at NCLC’s Mortgage Servicing and Loan Modifications § 12.3.8 [16].


A July 23, 2021, FHA Mortgagee Letter 2021-18 [33] revises the FHA COVID-19 waterfall and replaces the system FHA created in July of 2020 for the pandemic. For borrowers who indicate that they can afford their pre-hardship payment, servicers evaluate for a COVID-19 Recovery Standalone Partial Claim. Partial claims are interest-free loans from HUD that are discussed in NCLC’s Mortgage Servicing and Loan Modifications § 8.2.3.1 [34]. For borrowers who need a modification, servicers evaluate for a COVID-19 Recovery Modification, which targets a 25% reduction in the principal and interest payment.

The mortgagee letter also designates the Advanced Loan Modification (ALM) released in June of 2021 as a pre-waterfall step, which means that servicers should evaluate loans for ALM eligibility without needing any information from the borrower. Borrowers therefore may receive an ALM offer without contacting the servicer. Existing FHA loan modification options related to the pandemic are found at NCLC’s Mortgage Servicing and Loan Modifications § 12.3.6 [12].

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Source: National Consumer Law Center, [], updated at www.nclc.org/library
Source URL: https://library.nclc.org/fourteen-new-federal-actions-protecting-mortgage-borrowers

Links
[3] https://library.nclc.org/nclc/link/MS.12.03.10
[4] https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/24/fact-sheet-biden-harris-administration-
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announces initiatives to promote housing stability by supporting vulnerable tenants and preventing foreclosures/
[5] https://library.nclc.org/nclc/link/MS.12.03.06
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