

# Financial Wellness

HERA

housing and  
economic  
rights advocates

Options and Protections for  
Homeowners During COVID-19  
Health Crisis

# Housing Costs for Homeowners

**Each of these can turn into foreclosure risks:**

- Mortgage
- Property taxes (including PACE assessments)
- Homeowner's insurance
- Escrow accounts
- HOA/Condo Fees
- Maintenance and repairs (mechanic's liens and PACE assessments – judicial foreclosures (court lawsuit))

# The Non-Judicial Foreclosure Process

- Mortgage lenders can foreclose without filing a lawsuit
- Missed mortgage payments (minimum 120 days/4 months) →
- **Notice of Default** recorded →
- Three-month resolution period →
- **Notice of Trustee's Sale** recorded and posted →
- 20-day notice period →
- Sale of property at auction
- Post-foreclosure notices and proceedings
  - \* No lock-outs!
  - \* Eviction process
  - \* Tenant rights
  - \* Cash for Keys

# Mortgage Options for Keeping the Home

- Refinance

  - Not available if borrower is in default/foreclosure
  - Limited availability if property is underwater

- Reinstatement

  - Must be paid at least 5 days before scheduled foreclosure. Complete payoff can be made anytime before foreclosure sale.

- Repayment plan

- Forbearance for temporary hardship

  - e.g. Proprietary forbearance plans, unemployment forbearance plan programs, and COVID-19 forbearance plans

- Loan modification

- Litigation victory or settlement

# What happens to my mortgage if my income has been impacted by the COVID-19 crisis?



Your options depend on the type of loan you have and who is servicing your loan.

Federally-backed mortgages have significant protections.

Options for non-federally-backed mortgages are more piecemeal.

# What is a “federally-backed” mortgage?

A federally-backed mortgage is one that is owned or backed (insured) by a federal agency.

This includes:

- **Fannie Mae and Freddie Mac (“GSE”)** mortgages
- **Federal Housing Administration (“FHA”)** loans
- **Veteran’s Administration (“VA”)** loans
- **Department of Agriculture (“USDA”)/Rural Housing Service (“RHS”)** loans

**NOTE:** Just because your loan started out as a federally-backed loan, does not mean it is still a federally-backed loan. It may have been sold after the loan was originated. Thus, it is important to double check what type of loan you have.

# How can I check what type of loan I have?

## **Fannie Mae/Freddie Mac ("GSE") Mortgages**

Use the loan look-up tools online:

- Fannie: <https://www.knowyouroptions.com/loanlookup>
- Freddie: <https://ww3.freddiemac.com/loanlookup/>

## **Federal Housing Administration (FHA)**

- Check your mortgage closing documents for an FHA case number or specific references to FHA; or
- Check mortgage statement for FHA mortgage insurance premium charge; or
- Check property records (if available online) for a second deed of trust in favor of the HUD Secretary;
- Ask your servicer; or
- Call HUD's National Servicing Center (877/622-8525).

## **Veteran's Administration (VA)**

- Check mortgage documents for specific references to the VA and closing documents for fees paid to the VA; or
- Ask your servicer.

# What if I still cannot figure out what kind of loan I have?

For all loans, you can mail a “**Request for Information**” to your loan servicer.

- Make sure you mail the request to the correct address (listed on your mortgage statement or available on servicer’s website)!
- They must provide a response in 10 business days.
- You can find sample requests and instructions on the Consumer Financial Protection Bureau’s website: <https://www.consumerfinance.gov/ask-cfpb/how-can-i-tell-who-owns-my-mortgage-en-214/>
- HERA can also help you submit a Request for Information

**You want to ask the servicer for the following:**

- identity of, and address or other relevant contact information for, the owner or assignee of my mortgage loan;
- the full name, address, and contact information for any trust that owns the loan and the trustee; or
- any federally related entity that owns, insures, or guarantees my loan, including Fannie Mae, Freddie Mac, the Federal Housing Administration, or the U.S.D.A. Rural Housing Service



# I determined that I have a federally-backed mortgage, so now what?

If you are experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency, you are entitled to a forbearance upon request.

## **Deadline to Apply**

- FHA, VA, and USDA: until end of National Emergency to request a COVID-19 forbearance
- Fannie Mae/Freddie Mac: no deadline

## **Maximum Forbearance Periods**

- FHA: 12-18 months, depending on date initial forbearance began
- VA: 12-18 months, depending on when initial forbearance began. The VA expects plans to end by September 30, 2022
- USDA: 12-18 months, depending on when initial forbearance began
- Fannie/Freddie: 12-18, depending on when COVID-19 forbearance plan began

# What is a forbearance agreement?

- A reduction or suspension of payments for a set amount of time.
- The payments are not waived or forgiven; they will have to be paid back.
- Does not cover taxes, insurance, or condo fees if no escrow account



# If I have a federally-backed mortgage, are my loans automatically placed in forbearance?

Relief is NOT automatic. You must apply for assistance.

Here's how to apply:

- Contact your servicer by any form (call, email, fax, letter, or online portal) and let them know that you are facing financial hardship related to COVID-19.
- The servicer is required to provide forbearance relief with no additional documentation required other than your personal attestation to a financial hardship.

**Note:** The servicer may only offer an initial 60 or 90 days of relief at first, but you are entitled to the possibility of an extension. If you need an extension, you simply need to ask your servicer and attest to your ongoing hardship.

# What happens at the end of the forbearance period?

Your post-forbearance options depend on several factors:

- Whether your loan is a federally-backed mortgage
- Who is servicing your loan
- Who is the insurer or investor on your loan
- Whether you were current on your payments before the COVID-19 crisis



# Post- Forbearance Options Terminology

**Reinstatement:** Pay forborne amount in full

**Repayment Plan:** Pay forborne amount in installments added to monthly mortgage payment

**Payment Deferral:**

Defers repayment of principal and interest arrears + escrow advances as lump sum at the end of loan

**Modification:**

Targets a reduction in the P&I portion of the Borrower's monthly mortgage payment

**Partial Claim or Mortgage Recovery Advance:**

Loan insurer pays outstanding indebtedness and that amount becomes a zero-interest subordinate lien (for FHA, VA, USDA loans)

# Post-Forbearance Loss Mitigation Options for Privately-Backed Loans

If your loan is not federally-backed, your repayment options are often dictated by your servicer and the investor on your loan. However, many servicers are attempting to offer one of the following:

- An extended repayment plan
- A loan modification that capitalizes the missed payments
- A balloon payment at the end of the mortgage

Many mortgage companies require full payment at the end of the forbearance period.

**The clearest way to know your repayment options is to send a Request for Information to your loan servicer, explicitly asking if there are any restrictions on loss mitigation options that apply to your loan.**

# A Few Extra Notes on Loan Modifications

## Factors affecting your realistic options

- Default/foreclosure status
- Underwater vs. equity in the property
- Sustainability (need to be able to afford new payments)
- Who is the mortgage servicer? Who is the investor or guarantor? (federally backed or private investor owned?)

**Loan Modification Application should be submitted at least five business days before a scheduled foreclosure sale**

**Dual Tracking** is prohibited under the California Homeowners Bill of Rights and Regulation X of the federal RESPA, but you need to submit a “**complete application**” (no foreclosure while application is under review and pending appeal period or before an offer is accepted or rejected)

# Other Possible Relief to Explore

- **California Mortgage Relief Program (HAF Funds)**  
<https://www.calhfa.ca.gov/HAF.htm>  
Grants of up to \$80k to reinstate first mortgages
- **Alameda County Housing Secure Program (AHS)**  
Grants of up to \$30k to cure delinquent housing debts
- **City of Hayward Foreclosure Prevention Program**  
LOAN PROGRAM COMING SOON!



# Options for Dealing with Property Taxes

## **Delinquent Property Taxes**

- Repayment Plan with County Assessor's Office (requires 20% down payment). Repayment plans are available until 5 years from default
- Some cities and counties offer reinstatement assistance (Alameda County, Oakland, San Francisco HELP Loan)
- Warning: If your property taxes are escrowed, delinquencies can seriously impact your mortgage payments!

## **Property Tax Reassessment**

- Reassessment Exemptions
- Reassessment or Escape Assessment Appeals

## **Future Property Taxes**

- Check eligibility for exemptions for seniors and disabled veterans
- California State Property Tax Postponement Program for senior, blind or disabled homeowners (applications available in September, call (800) 952-5661 or email [postponement@sco.ca.gov](mailto:postponement@sco.ca.gov))

# Homeowners Association (HOA) Delinquencies

- **Limits on Foreclosure Activity** - The HOA cannot foreclose on a homeowner's property unless the amount of assessments owed (NOT including late fees, interest, costs of collection, or other amounts) is more than \$1,800 or more than 12 months old. See Cal. Civ. Code §5720
- **Right to Make Partial Payments** - If a homeowner makes a payment to the HOA (even if the amount is less than the full amount demanded on the homeowner's account), the HOA (and its collection agent) is required to accept that payment.
- **Order of Application of Payments** - Payments made by a homeowner must first be applied towards assessments owed. Only after assessments owed are paid in full should homeowner payments be applied to any other charge, including the fees and costs of collection, attorney's fees, late charges, or interest.
- The Community Associations Institute released the following guidance\*\*\*:  
<https://www.caionline.org/Advocacy/Documents/00CAI%20Statement%20of%20Moratorium%20on%20Foreclosure%20Actions%20Final.pdf>

\*\*\* These are not enforceable rules, but can be very persuasive to get your HOA to work with you

# Bankruptcy as Last Resort

- Talk to a qualified bankruptcy attorney
- Chapter 13: asset preservation
- Will need to continue to make mortgage payments moving forward while working out a plan to pay the past due payments
- Possible advantages: automatic stay on debt collection; lien stripping; removing unsecured debt
- Be wary of people who you pay to just file paperwork and then don't stick around to help you through bankruptcy (very complicated rules involved)

# Beware of Foreclosure Rescue Scams!

Scammers are always looking to take advantage of people in desperate situations.

Always be wary of companies or individuals that:

- Charge a high up-front fee for their services
- Promise to get you a loan modification
- Ask you to sign over your property title
- Ask you to sign papers you don't understand
- Tell you to make payments to someone other than your servicer
- Tell you to stop making payments altogether
- Promise you payments in connection with providing credit card numbers and other personal information



The CFPB has a page dedicated to COVID-19 scams:

<https://www.consumerfinance.gov/about-us/blog/beware-coronavirus-related-scams/>

## **What to do if you got caught up in a foreclosure rescue scam**

- Report it: (1) Police; (2) CFPB; (3) AG's Office
- Stop communicating with them
- Call us or a HUD Certified Mortgage Counselor

# HERA Provides An Array of Legal-Financial Counseling Services

## HERA's Services

Debt Collection	<ul style="list-style-type: none"><li>• Student loan</li><li>• Auto loan</li><li>• Medical debt</li><li>• High cost loans (auto-title, payday, check cashing)</li><li>• Home Owners Association (HOA)</li></ul>
Credit Reporting	<ul style="list-style-type: none"><li>• Identity theft</li><li>• Accessing credit report</li><li>• Denial of credit or loan because of credit report</li><li>• Errors on credit report</li></ul>
Financial Products Recommendations	<ul style="list-style-type: none"><li>• Affordable small dollar loans</li><li>• Credit building products</li></ul>
Mortgages	<ul style="list-style-type: none"><li>• Foreclosure prevention and mortgage servicing issues</li></ul>
Veterans & Service members	<ul style="list-style-type: none"><li>• Enforcing special protections and assisting with special resources for veterans and service members</li></ul>
Estate Planning	<ul style="list-style-type: none"><li>• Simple wills, trusts, health directives, and power of attorney (*sliding scale fee for services)</li></ul>

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[www.heraca.org](http://www.heraca.org)

***Our services are free!\****