



COVID-19 EDITION MORTGAGES AND FORECLOSURES NASSAU AND SUFFOLK COUNTIES

Last updated July 6, 2020. The situation is changing rapidly.
Please check our website for the latest updates.



What are my options if I am unable to make my monthly mortgage payments?

Governor Cuomo enacted a moratorium on new foreclosure cases for homeowners experiencing financial hardship because of COVID-19. This moratorium lasts until August 20, 2020.

If you cannot pay your mortgage because of coronavirus pandemic, contact your mortgage servicer to request forbearance. Your servicer is the organization that sends your monthly statements. You should make the request in writing, explain that it is related to the public health emergency, and keep a copy of the letter along with proof of sending (whether by mail, fax, or email).

While many lenders have special programs to help homeowners avoid foreclosure during the current crisis, the details will vary by lender and are still evolving. Contact a housing counselor for more help understanding forbearance and modification options.

Federally backed mortgages (Fannie Mae, Freddie Mac, FHA, VA, etc.)

The federal CARES Act allows homeowners with federally backed mortgage loans to request a forbearance on their monthly payments. Forbearance delays your obligation to make monthly payments. Homeowners with federally backed mortgage loans are entitled to receive an initial forbearance of up to 180 days and an additional 180 days, if they have experienced a financial hardship due to the COVID 19 emergency. Additional late fees should not be incurred during this period, but regular interest and escrow charges will continue to accrue.

Requests for forbearance must be made to the mortgage servicer. Federally backed loans are those either insured, or guaranteed by federal agencies (FHA, HUD or VA), or purchased by Fannie Mae or Freddie Mac after loan origination. Loans insured or guaranteed by the FHA, HUD or VA, are identified on the note and mortgage. To learn whether Fannie Mae or Freddie Mac purchased your loan after origination, you will need to go on their respective loan lookup tools ([Fannie Mae Lookup](#) or [Freddie Mac Lookup](#)), with the borrower's name, last four digits of the borrower's social security number and the residence address. (Read More about FHA Mortgages – [Understanding your options](#))

Lenders regulated by New York

Institutions regulated by the State of New York's Department of Financial Services ("DFS") hold a small number of mortgage loans. On March 24, 2020, the Governor issued Executive Order 202.9, and DFS issued emergency regulations allowing homeowners with mortgage loans held by these New York regulated institutions to obtain a forbearance of mortgage payments for 90 days, if they are facing financial hardship due to COVID 19.

Other private lenders

For other privately held mortgages, you will need to check with the mortgage servicer for available options if you are unable to make the monthly payments due to financial hardship.

If your lender refuses to give you forbearance contact Nassau Suffolk Law Services at (631) 232-2400 (Suffolk) or (516) 292-8100 (Nassau), another legal services provider, a non-profit housing counselor or the [New York State Attorney General's office](#) at 1-800 771-7755.

We make every effort to keep referral information, legal educational materials, and related forms up-to-date. However, the situation is rapidly evolving, and we do not maintain materials on external sites. We cannot guarantee the accuracy of this information, nor are we responsible for any legal advice, information or assistance that you may obtain from external sources. They are provided for general information only.



What is a forbearance?

Forbearance allows you to delay making monthly payments for a specified period. **Forbearance is not forgiveness of any part of the debt.** You still have to make these payments during the life of the loan. Under both the CARES Act and the State directives, you should not be charged late fees, though interest, at the loan's established rate, will accrue. Under the CARES Act, many homeowners with federally backed mortgages will have the option to add the forbearance period (up to one year) to the end of the loan, or to make extra make-up payments over the remaining loan term. Learn more from the [New York State Attorney General](#).

Homeowners with loans held by NYS regulated institutions or other private lenders, may have to make a lump sum payment at the end of the forbearance period (90 days). However, if your servicer requires you to make a lump sum payment or does not help you to work out a reasonable repayment plan, you can make a [complaint](#) to the New York State Attorney General.



Am I entitled to a forbearance if I was in default on my mortgage before the CARES Act?

The CARES Act allows all homeowners with a federally backed mortgage loan to request forbearance for an initial 180 days and an extension of up to another 180 days if they have suffered a financial hardship related to the COVID 19 pandemic. The CARES Act does not distinguish between those who also suffered a previous financial hardship. So, homeowners who were already in default, including homeowners already in the midst of a pending foreclosure proceeding, should have the right to request forbearance.



When should I seek forbearance?

If you are not able to pay your mortgage you should contact your lender and ask for help as soon as possible, preferably before you miss your first payment. However, forbearance may not be the best option for you.

Most homeowners include payments for property charges (taxes and/or homeowner's insurance) with their monthly mortgage payments. These are identified as escrow payments. These expenses are not subject to forbearance.

Homeowners should make sure to communicate with mortgage services on how property charges will be paid during forbearance. Depending on the timing of the forbearance period, property charges may not be due for several months. Nonetheless, mortgage servicers are required to have a sufficient sum in the escrow accounts through the course of the year. A forbearance of any length will result in a shortfall that will need to be made up.

If you are able to continue your monthly mortgage payments, you should.



What other options are there if I am having difficulty making the monthly payments?

There are several other loss mitigation options to consider. The primary option to avoid foreclosure is a loan modification. A loan modification changes the some of the note terms. A loan modification can reduce the interest rate, extend the loan maturity date, or establish a balloon payment of some of the remaining principal balance at the end of the loan.

Written guidance for loan modification eligibility and criteria for federally backed mortgages are online, through HUD, the VA, Fannie Mae and Freddie Mac. Loan modification terms and conditions for privately held loans are subject to the rules of individual investors or loan owners.

Reinstatement of the existing loan terms, by paying all the arrears, is another option to consider, though you will need to have a sufficient lump sum to satisfy the amount due.

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Non-profit legal service programs, including NSLS, and housing counseling agencies, provide free assistance to homeowners seeking all loss mitigation options. The NYS Department of Financial Services website [lists free housing counselors](#).



When can the Lender begin a foreclosure action?

In NYS, the Governor has issued an executive order extending the current moratorium on commencing new foreclosures through August 20, 2020, for homeowners facing financial hardship due to the COVID-19 pandemic.

New York State law has long required the service of a ninety (90) day notice to the homeowner before the mortgage holder may commence a foreclosure action. The lender cannot commence a foreclosure action until the expiration of the 90-day notice period. If you have received forbearance, your loan should be deemed current. This means no 90-day notice should be served and no foreclosure proceeding should be commenced until after the forbearance period ends.

There is a foreclosure moratorium on federally backed mortgage loans through June 30, 2020. The moratorium governing federally backed mortgages applies to virtually all foreclosure-related activities.



What if I have a pending foreclosure action?

Virtually all activity in foreclosure actions pending in New York state court have been suspended since March 2020. The few foreclosure cases pending in federal court have not been suspended, though the federal and State moratoriums have likely, effectively suspended court activity in federal court foreclosure proceedings as well.

With courts beginning to slowly increase activity on pending cases, you should make sure to check with the court about your case. This is especially important if you were involved in the mandatory settlement conference part when the suspension and moratoriums were put in place.

As of June 10, 2020, the courts are beginning to allow foreclosure litigants and their attorneys to physically enter courthouses on Long Island in limited circumstances. However, foreclosure proceedings are still officially suspended until further notice. Please make sure to regularly contact the court, especially if you are not represented by an attorney.

If you have a foreclosure case further along in the process, you should also check with the court. The court may not know whether you have a federally backed loan that would be subject to the current moratorium. Do not assume the court will not schedule a court date until the moratorium ends.

Though your case may be suspended, you can still negotiate with the mortgage servicer for a loan modification or other loss mitigation option. Contact Nassau/Suffolk Law Services, or other non-profit Legal Services and Housing Counseling Agencies for assistance.



I have an auction date scheduled. What should I expect?

Auctions were originally suspended through at least June 19, 2020. On May 7, 2020, Governor Cuomo extended the moratorium on foreclosure auctions until August 20, 2020 for homeowners facing financial hardship because of COVID-19. We expect this moratorium to be broadly interpreted.

[Check the court's website for a new date.](#) ***We understand that there may be a delay in posting updates to the court website. If you receive a notice directly from the court, go by that rather than the information on the website.***

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I received a Summons and Complaint or other documents that say I have to answer or appear in court. What should I do?

All court deadlines in foreclosure cases pending in New York State court are suspended between late March and July 6, 2020. The courts on Long Island may be accepting documents for filing again in some situations. You will not be penalized for missing a New York State trial court deadline that fell between March and July 6, but your time to respond will start running again after July 6 (unless Governor Cuomo continues to extend this date. Check this page frequently for updates.).

If your case is pending in federal court, these rules do not apply.

Contact Nassau Suffolk Law Services for more information on what to expect in your case (631) 232-2400 (Suffolk) or (516) 292-8100 (Nassau).



I had a trial loan modification pending but can't make the payment because of the coronavirus pandemic. Am I going to lose the modification?

The Governor has requested that lenders provide a 90-day grace period lasting until June 2020 to complete trial loan modifications. However, the Governor's request does not have the full force of law.

If you expect to miss a payment because of coronavirus you should contact your lender to request an extension. You should make the request in writing, explain that it is related to the public health emergency, and keep a copy of the letter along with proof of sending (whether by mail, fax, or email).

If your lender refuses to give you an extension, contact a [housing counselor](#) or the [New York State Attorney General's](#) office at 1-800 771-7755.



I have a reverse mortgage. What should I do if I am unable to pay my property taxes?

Contact your servicer to let them know if you will not be able to pay your property taxes or insurance. HUD instructed reverse mortgage (HECM) servicers not to start the foreclosure process for six months, with an additional six-month delay available with HUD approval.

Where can I go to learn more about programs to help people through the public health emergency?

- Department of Financial Services: [Coronavirus: Mortgage and Foreclosure](#)
- Additional Resources: [Click here to learn see additional resources](#) and learn about the [economic stimulus payment](#).