

Foreclosure and Eviction Moratoriums Under the CARES Act

Article By:

Daniel Q. Orvin

The recent business shutdowns and other measures used by federal, state, and local governments throughout the country to slow the spread of the COVID-19 pandemic have limited the ability of many property owners and tenants to earn income. As a result, many borrowers are unable to make scheduled mortgage payments and tenants are unable to pay rent. The [Coronavirus Aid, Relief, and Economic Security Act \(CARES Act\)](#), enacted on March 27, 2020, includes moratorium provisions that protect the right of these borrowers and tenants to remain in their dwelling without facing the threat of immediate foreclosure and eviction.

Section 4022

Section 4022 of the CARES Act provides a moratorium on residential foreclosures for borrowers with federally backed mortgage loans.

Key Provisions under Section 4022:

- It provides foreclosure protections for borrowers with real property secured by federally backed mortgage loans.
- Borrowers who affirm they are experiencing a COVID-19 related hardship can request a forbearance from their loan servicer of up to 180 days, which can be extended for an additional period of up to 180 days.
- Except with respect to a vacant or abandoned property, servicers may not initiate a foreclosure, move for judgment, or order a sale, or execute a foreclosure-related eviction or foreclosure sale for not less than the 60-day period beginning on March 18, 2020.

Section 4024

Section 4024 of the CARES Act provides a moratorium on evictions for residential tenants occupying a Covered Property (defined as any property that (A) participates in (i) a covered housing program as defined in Section 41411(a) of the Violence Against Women Act of 1994; or (ii) the rural housing voucher program under section 542 of the Housing Act of 1949; or (B) has a Federally backed mortgage loan or a Federally backed multifamily mortgage loan).

Key Provisions under Section 4024:

- It provides eviction protections for residential tenants occupying a Covered Property.
- A landlord of a Covered Property cannot file a new eviction proceeding for nonpayment of rent for 120 days beginning on March 27, 2020.
- Eviction proceedings that have already been filed are not affected.
- During the moratorium period, landlords may not charge fees, penalties, or other charges for nonpayment of rent.
- After the moratorium period, the landlord may not evict a tenant unless the landlord provides 30 days' notice.

Section 4023

Under Section 4023 of the CARES Act, borrowers with a federally backed multifamily mortgage loan may request a forbearance for up to 30 days, with two 30 day extensions. Under Section 4023, a tenant renting a dwelling unit within such multifamily property cannot be evicted for nonpayment of rent or charged late fees, penalties, or other charges during the forbearance period.

Lenders and landlords should consult with legal counsel before taking any steps to foreclose on borrowers or evict tenants that may qualify for certain protections outlined in the CARES Act.

Copyright © 2024 Womble Bond Dickinson (US) LLP All Rights Reserved.

National Law Review, Volumess X, Number 111

Source URL: <https://natlawreview.com/article/foreclosure-and-eviction-moratoriums-under-cares-act>