

Practice Update

# Summary of Key Consumer Finance Provisions in the CARES Act

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By [Eric I. Goldberg](#), [William P. Heller](#), and [Thomas J. Kearney](#)

On March 27, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), legislation intended to help Americans and businesses survive the ongoing public health and economic crisis due to the COVID-19 pandemic. This article provides a summary of key consumer finance provisions in the CARES Act.

## Credit Reporting

Section 4021 of the CARES Act amends the Fair Credit Report Act (FCRA) to address coronavirus-related accommodations made by furnishers. New FCRA § 623(a)(1)(F) addresses situations where a lender, servicer, or other FCRA furnisher makes an accommodation for a borrower regarding one or more payments due to the impact of COVID-19 on the borrower. When a furnisher makes virus-related accommodations, the furnisher must report the account as current unless the account was delinquent prior to the accommodation. This change to FCRA remains in effect until the later of 120 days from the passage of the Act (July 25) or 120 days after the National Emergency terminates.

## Foreclosure Moratorium and Consumer Right to Forbearance

Section 4022 of the CARES Act permits a borrower with a Federally backed mortgage loan (e.g., loans

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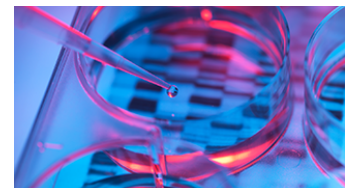
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purchased, securitized, owned, insured, or guaranteed by Fannie Mae or Freddie Mac, or owned, insured, or guaranteed by FHA, VA, or USDA) who is experiencing a financial hardship due to COVID–19 to request forbearance from their lenders. Borrowers must submit a request to their loan servicer affirming that they are experiencing financial hardship due to the COVID–19 emergency. Upon receiving this information, lenders and servicers are required to grant forbearance for 180 days. After the initial 180-day period, the borrower can request that forbearance be extended by an additional 180 days. During this period, servicers cannot impose fees, penalties, or interest beyond the amounts that would be due if the borrower made all contractual payments on time and in full.

Additionally, section 4022 prohibits a servicer of a Federally-backed mortgage loan from initiating a judicial or non-judicial foreclosure until May 17. Note that Fannie Mae, Freddie Mac, HUD, and many states and municipalities have put additional limits on new foreclosure proceedings. Please see related materials from Akerman on this subject [here](#) and [here](#).

### Forbearance for Multifamily Borrowers

Section 4023 of the CARES Act permits borrowers with federally-backed mortgage loans secured by multifamily properties to request forbearance. Unlike section 4022, forbearance for multifamily borrowers is only for an initial 30 days. This can be extended twice (by 30 days each time), if the borrower requests an extension at least 15 days before the end of the forbearance period.

### Foreclosure Moratorium and Consumer Right to Forbearance

Section 4024 of the CARES Act prohibits landlords of covered dwellings from filing or initiating an eviction of a tenant for nonpayment of rent or other fees or charges. Additionally, landlords cannot charge fees, penalties, or other charges to the tenant related to such nonpayment of rent. Covered

dwelling is a dwelling occupied by a tenant subject to a residential lease or without a lease that is on a covered property. A covered property includes any of the following: (i) a covered housing program as defined by section 41411(a) of the Violence Against Women Act, (ii) a property that participates in the rural housing voucher program, (iii) has a federally-backed mortgage loan, or (iv) has a federally-backed multifamily mortgage loan. This probation lasts for 120 days, or until July 25. Additionally, once the period expires landlords must provide at least 30 days' notice before initiating eviction proceedings.

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