

Oregon and Federal Foreclosure Moratoria and Protections for Homeowners

Updates as of 7/26/2021

Oregon Foreclosure Moratorium

On June 1, 2021, Oregon extended protections that prevent residential foreclosures to help homeowners recover from the pandemic. Until the end of the emergency period, September 30, 2021, if a homeowner who owns five or fewer residential properties notifies their mortgage company that they are unable to make a mortgage payment because of a loss of income related to the COVID-19 pandemic, the mortgage company may not initiate or continue with the foreclosure process. Qualifying homeowners may also place their mortgage loan in forbearance until September 30, 2021, and defer missed payments until the end of the loan term.

Eligibility for Forbearance and Deferral Options

To qualify for forbearance and deferral, a homeowner must notify their mortgage company that they are unable to make a mortgage payment because of a loss of income related to the COVID-19 pandemic. There is no requirement that a homeowner give notice in writing; however, a mortgage company may ask for written confirmation. If a homeowner notified their mortgage company of their financial hardship before June 1, 2021, they must do so again to be protected.

With certain exceptions, once a homeowner has given the required notice, a mortgage company may not:

- Initiate or continue with the foreclosure process.
- Treat a missed payment as default.
- Charge late fees or penalties.
- Use missed payments to disqualify a homeowner from other foreclosure avoidance measures.

Mortgage companies must notify homeowners of the protections and forbearance options by either:

- Mailing all borrowers notice by July 31, 2021.
- Notifying every homeowner who misses a mortgage payment within 30 days from the missed payment.

The Governor has until August 16, 2021, to extend these protections until the end of the year.

Foreclosure Avoidance Program

Oregon law requires many mortgage companies to request a resolution conference with a homeowner to discuss options for avoiding foreclosure before initiating a foreclosure action. If a homeowner decides to participate in a resolution conference, they meet with a trained housing

counselor, who can help to evaluate available options and answer questions. The conference with the mortgage company and homeowner is then led by a neutral facilitator. **Under new protections, a resolution conference may now be held in-person or remotely via phone or video conference.**

Foreclosure avoidance measures include forbearance, modifications to the payment or other loan terms, a deed in lieu of foreclosure, a short sale, or other assistance that avoids a foreclosure.

Federal Foreclosure Moratorium, Forbearance Programs and Foreclosure Protections

The moratoria on foreclosures of federally backed mortgages have been extended through July 31, 2021. Generally, a mortgage company that services a federally backed mortgage loan may not initiate a foreclosure process during the moratorium period, and a homeowner may temporarily pause their monthly payments by placing their loan in forbearance.

The foreclosure moratoria and forbearance requirements apply to loans backed by:

- U.S. Department of Agriculture (USDA)
- Federal Housing Administration (FHA)
- Veterans Affairs (VA)
- Fannie Mae
- Freddie Mac

Forbearance Options

A homeowner with a federally backed loan has the right to request forbearance for 180 days, which will temporarily pause their monthly mortgage payments. The homeowner must contact their mortgage company to request the forbearance. Proof of financial hardship is not required.

- **During forbearance**, a mortgage company may not charge any late fees or penalties.
- **Forbearance is not forgiveness.** Mortgage companies should work with homeowners to develop a repayment plan. Homeowners are not required to pay the amount owed in a lump sum at the end of the forbearance period. Instead, homeowners may defer the amount owed to the end of the loan or agree to other modifications to the terms of their loan.

Important Deadlines to Request Forbearance

For loans backed by FHA, USDA, or the VA, **homeowners must request an initial forbearance by September 30, 2021.** Homeowners who requested their initial forbearance before July 1, 2021, may be entitled to 3-month- to 6-month extensions.

Currently, there is no deadline for requesting the initial forbearance from Fannie Mae or Freddie Mac; however, struggling homeowners are encouraged to reach out to their mortgage company as soon as possible.

Mortgage companies that serve non-federally-backed loans may also have forbearance or deferment options available to homeowners that are struggling financially, and those homeowners are also encouraged to reach out to their mortgage companies as soon as possible.

New Temporary Federal Regulations to Protect Homeowners Starting August 31, 2021

As moratoria and forbearance periods begin to expire, new safeguards will go into effect that give homeowners time and opportunity to explore their options to bring their mortgage current and avoid foreclosure. Generally, homeowners may:

- Resume their regular mortgage payments and defer missed payments to the end of the loan term.
- Lower their monthly mortgage payment by agreeing to loan modifications.
- In some cases, sell the home.

Streamlined Loan Modification Process. To allow homeowners to get into affordable mortgage plans faster, mortgage companies will be able to modify the terms of a loan without all the paperwork normally required. Additionally, mortgage companies may not charge fees in connection with the loan modification, and the modifications may not increase a homeowner's monthly payment.

Outreach to Homeowners. Under the temporary regulations, mortgage companies must increase their efforts to contact homeowners who are behind on their mortgage to discuss assistance programs and options.

- **For homeowners not in forbearance.** Mortgage companies must contact homeowners who have missed mortgage payments to inform them of available forbearance options, assistance programs, and counseling services.
- **For homeowners in forbearance.** Mortgage companies must contact homeowners before the scheduled end of their forbearance period to discuss applicable forbearance extensions, repayment options, and the availability of counseling services.

Importantly, from August 31, 2021, through December 31, 2021, a mortgage company generally may only begin the foreclosure process if the homeowner is more than 120 days behind and:

- Has abandoned the property;
- Is unresponsive to the mortgage company's outreach; or
- Has been evaluated for all options other than foreclosure and certain "foreclosure protection conditions," such as a determination that borrower is not eligible for any options, have been met.