Insight

The CARES Act and Housing Assistance: A User's Guide

THOMAS KINGSLEY | MAY 8, 2020

Executive Summary

- The Coronavirus Aid, Relief, and Economic Security (CARES) Act provides substantial relief for some homeowners and some protection for renters, and this primer outlines the protections and aid for different kinds of residents.
- The CARES Act provides up to a year of forbearance to homeowners with mortgages backed by federal loans, while providing similar forbearance for owners of multi-family units (i.e. landlords) with federally backed mortgages; it also prevents landlords with federally backed mortgages from evicting their tenants.
- The CARES Act does not provide the same assistance to renters and ineligible homeowners, who may be forced to rely on state and county assistance.

Introduction

In the face of the economic and social disruption caused by the coronavirus, Congress has passed three pieces of legislation aimed at combatting the virus and its impact. It initially passed two significant response packages to address health-sector needs and support American families. On March 26, the "Phase 3" stimulus package, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, was signed into law. With an estimated $2 trillion price tag, the third package is the largest and perhaps most significant economic assistance package in American history.

Included in the CARES Act is significant support to those who own a home – but only those homeowners who fit a certain profile. This piece outlines the assistance available to you whether you are a homeowner, a renter, live in single-family accommodation, or own a multifamily property such as an apartment block.

If you own a property, your mortgage is backed by the federal government, and you live in single-family accommodation:

You may be eligible to request forbearance on your existing mortgage for up to a year. Forbearance usually involves either lower payments or no payments for a defined period of time. This loan alteration is not permanent, and the expectation is that usual loan terms will be restored and the full loan balance will have to be paid off at a later date. During this period of forbearance, no fees *or interest* will be applied to the borrower. In order to qualify for this forbearance, you must state, but not prove, that you are suffering economic hardship as a result of the COVID-19 pandemic. In addition, you must be current on your mortgage payments; you will not be eligible for this relief if you are already in default.

Many mortgage-holders are not aware of who ultimately owns their mortgage, or whether their mortgage is insured by the federal government, although it is estimated that 70 percent of home mortgages are backed by a government agency. The easiest way to ascertain this is to make a request of your mortgage servicer (whoever you make your monthly mortgage payments to), who is required to provide you with this information. To check whether your mortgage is backed by government-sponsored enterprises Fannie Mae or Freddie Mac, as are the majority of loans in the United States, see here or here.

If you discover that your mortgage is backed by the federal government, you may then request forbearance from your mortgage servicer. Forbearance under the CARES Act is not automatic; you must apply for it. Forbearance, if granted, will likely be for an initial period of 180 days that may be extended a further 180 days. Given the circumstances, it may take your servicer some time to process this application, and forbearance possibilities differ from mortgage to mortgage. Your best option is to discuss your options with your mortgage servicer.

If you do seek forbearance, a specific clause of the CARES Act protects your credit rating. Seeking forbearance will not negatively impact your credit, provided that you meet the terms of your amended obligation with your lender or servicer. If you have not yet applied for forbearance, you have until either the end of the national emergency or December 31, 2020, whichever comes first.

In addition, servicers of federally backed mortgage loans cannot initiate foreclosure proceedings or foreclosure-related evictions for at least 60 days beginning March 18, 2020. This restriction does not apply to vacant or abandoned properties.

Forbearance could prove vital to homeowners particularly hard-hit by the COVID-19 pandemic; an estimated 7.5 percent of all mortgages, or 3.8 million homeowners, are now in

forbearance plans. However, homeowners who seek forbearance must understand that this is not "free" money – mortgage payments are not forgiven, but merely delayed. Because the CARES Act does not specify how borrowers should exit the forbearance plan, this decision is being left up to lenders and servicers, who are implementing a patchwork of different approaches. An end-of-forbearance "balloon" lump-sum payment is possible, although Fannie Mae guidelines indicate homeowners should be able to have their normal mortgage terms resume, apply for an extension, or work out a new long-term payment plan.

If you own a property, your mortgage is backed by the federal government, and are a multi-family borrower:

A multifamily borrower – usually a landlord – is also eligible for forbearance under the CARES Act if the mortgage is backed by the federal government. Forbearance for multifamily borrowers is executed in exactly the same way as if the borrower were a single-family borrower, although the initial forbearance period is 30 days with the possibility for two additional 30-day extensions. One key additional requirement for multifamily borrowers who receive forbearance is that they must undertake to not evict a tenant solely for rent nonpayment or charge late fees or other penalties to tenants for the period of forgiveness. In addition, multifamily borrowers backed by the federal government cannot pursue legal action to recover a property, regardless of whether or not they apply for forbearance under the CARES Act.

If you own a property and your mortgage is not backed by the federal government:

If your mortgage is not backed by the federal government, you are not eligible for relief under the CARES Act. Your servicer, however, may provide some form of forbearance program of its own initiative; such a program, in addition to being a reflection of these difficult times, also makes practical sense for the servicer, as it is in no one's financial interest for you to default on your mortgage. You may be required to demonstrate that the current conditions have caused you economic hardship.

If you are a renter:

The CARES Act does not provide direct financial assistance to renters, although it does appropriate an additional $17.4 billion to the Department of Housing and Urban Development (HUD) for existing programs including rent assistance, public housing, housing grants and vouchers, and assistance to minority and disadvantaged communities.

As noted above, however, the CARES Act moratorium on evictions means that tenants in multifamily properties with loans backed by the federal government (estimated to be a quarter of all rental properties in the United States) cannot be evicted for the duration of

the federal emergency. If your building is not backed by the federal government, you may still be protected from eviction by state or local laws.

Similarly, although emergency renter assistance does not currently exist at the federal level, some cities and states are using federal emergency stimulus funds to provide direct assistance to renters. Otherwise, it may be that future stimulus packages involve direct rental assistance, something that Congressional Democrats in particular are pushing for.

Conclusions

The ability to suspend mortgage payments for a significant population will come as a significant relief at a time when 10 million workers have applied for unemployment in the last two weeks. Forbearance is not available to all, however, and is likely to cause significant strain on the housing market as a whole. It seems likely that future stimulus packages will need to go further and provide some sort of direct relief particularly to those who rent their homes. It remains to be seen in what form that assistance will come and how much will be enough.