FORECLOSURES, EVICTIONS, AND UTILITY CUTOFFS: RELIEF FOR PEOPLE FACING HARDSHIP DURING THE PANDEMIC

TMI BRIEFS
APRIL 2020

This edition of TMI Briefs provides details on recent legislative measures enacted to protect homeowners and renters during the pandemic. We also include several policy recommendations that federal, state, and local officials should implement to safeguard the communities most likely to be disproportionately impacted by the current pandemic.

Many people will struggle to pay their mortgage, rent, or utility bills as a result of the COVID-19 pandemic. While government relief options are being quickly adopted and revised, the fundamental principles outlined here should apply to most relief programs. Relief measures do not always offer the protections that many Americans assume they do. They often come with strings attached or work in unanticipated ways. For example, while moratoriums on foreclosures or evictions or the suspension of payments during the pandemic may allow you to stay in your home during the relief period, they typically will not relieve you of the underlying obligation to pay your mortgage or rent. In addition, it is important for people to look out for scams and predatory programs during these times. Being proactive can make all the difference when facing hardship, and it starts with reading the fine print.

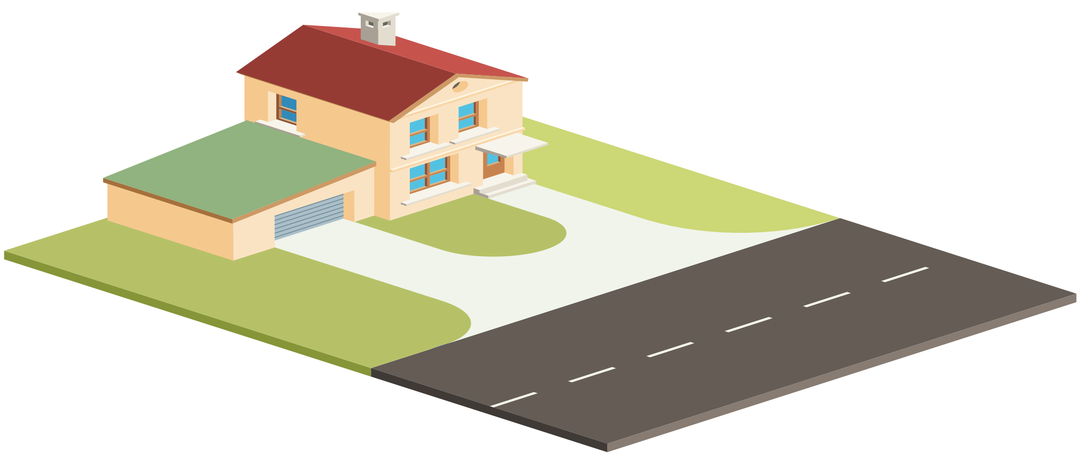
Black Americans are being disproportionately affected by the pandemic and may be at a higher risk of losing their homes through foreclosure and eviction during the crisis. The Thurgood Marshall Institute is also releasing a report on the impact of COVID-19 on fair housing for Black families.

COVID-19 Federal Foreclosure and Eviction Moratoriums

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, a $2 trillion stimulus aid package. Under the Act, the federal government has provided some relief for homeowners and renters who are affected by the coronoavirus pandemic. Key provisions are highlighted below.

Homeowners

Under the CARES Act, homeowners with federally backed mortgages—for example, loans owned by the Department of Housing and Urban Development ("HUD"), the Federal Housing Finance Agency ("Fannie Mae"), or the Federal Home Loan Mortgage Corporation ("Freddie Mac")—have multiple options for mortgage relief. For instance, the CARES Act prohibits lenders and servicers of federally backed mortgages from foreclosing on homeowners for 60 days after March 18, 2020. In addition, the CARES Act allows homeowners to request a forbearance on mortgage payments for up to 180 days if they are experiencing financial hardship because of the COVID-19 pandemic. **Importantly, the mortgage relief options are not automatic and homeowners must contact their lenders to request a forbearance.**



Relief for Homeowners with Fannie Mae Backed Loans

If you have a loan backed by Fannie Mae and have been financially impacted by the COVID-19 pandemic, through job loss, income reduction, sickness, or other issues, there are relief options available to you. In addition to payment relief and repayment options, Fannie Mae's Disaster Response Network offers free help with the broader financial challenges caused by the pandemic.

Fannie Mae recommends that homeowners visit their website to determine if they have a Fannie Mae-owned mortgage and are eligible to receive assistance.

Relief for Homeowners with Freddie Mac Backed Loans

If you have been affected by COVID-19 and have a loan backed by Freddie Mac, relief options may be available for you. Visit Freddie Mac's website for more information about the program's eligibility requirements and to determine if Freddie Mac owns your loan.

Relief for Homeowners with FHA Loans

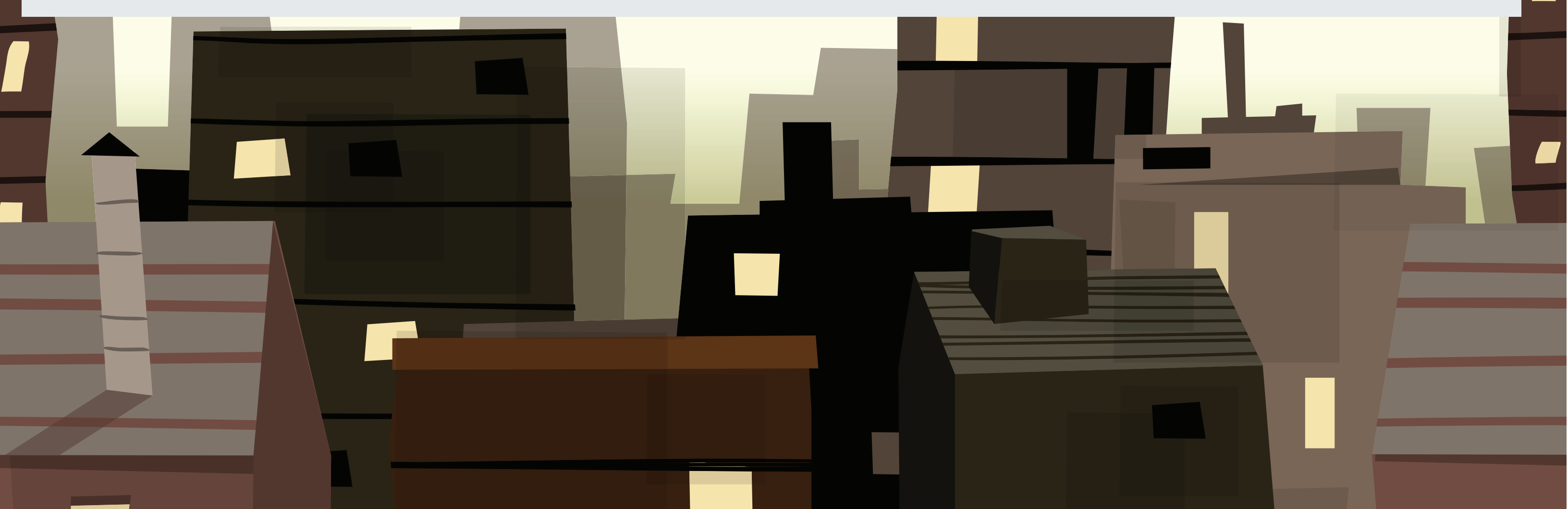
If you have a loan from HUD's Federal Housing Administration ("FHA") and have been affected by COVID-19, there are relief options available to you. Visit HUD's Disaster Relief Options for FHA Homeowners site.

Renters

If you are expecting an imminent eviction *or* struggling to make your forthcoming rental payment, it is imperative that you check to see what your state, city, or county is doing to help provide relief for renters who need support. For example, some states have either already banned or are considering banning evictions of tenants who are facing COVID-19-induced economic hardships. Many other localities are enacting similar measures. It is important to reach out and find out what resources may be available to you to help you pay your rent.

Paying Your Rent

Nearly a third of renters in the U.S. did not pay their April rent. The CARES Act may provide rental assistance through city and county community development programs. It is important to reach out to your local county or fair housing organization and find out what resources may be available to you to help you pay rent. If your income has not been affected by the pandemic, it is important to continue to pay your rent or mortgage. Taking a break now, if you don't need it, can increase your risk of default or delinquency later as you try to make up for back payments.



The CARES Act also provides for a federal eviction moratorium for renters in certain types of properties.

The Federal Eviction Moratorium for Tenants in Federally Backed Housing

Under the CARES Act, tenants in federally supported housing are provided with 120 days of eviction relief. This means you may not be served with an eviction notice until July 25, 2020, and the notice must give you 30 days to leave the property. During the moratorium, you may not be charged late fees, penalties, or other charges for paying your rent late. However, the moratorium does not relieve you of your obligation to pay rent. Nor does it prevent a landlord from proceeding with an eviction for a reason other than the nonpayment of rent, or from proceeding with an eviction that was initiated prior to the passage of the law.

Only certain properties are covered by the federal eviction moratorium:
- Properties with a federally backed mortgage (e.g., properties with mortgages owned by HUD, Fannie Mae, or Freddie Mac);
- Properties covered under the Violence Against Women Act. This includes public housing, the Section 8 Housing Choice Voucher Program, and project-based public housing, among other covered properties;
- Properties subject to the Rural Housing Voucher Program; and
- Properties participating in the Low Income Housing Tax Credit

For more information on what qualifies as federally backed housing and how the CARES Act will apply, read this article by the National Housing Law Project.

For more information on how the federal eviction moratorium affects renters in publicly subsidized housing, please see HUD's Frequently Asked Questions document, which was issued on March 31 to respond to common issues raised by agencies related to COVID-19.

Additional Rental Assistance for Public Housing Tenants or Housing Choice Voucher Recipients

If you receive a Housing Choice Voucher or live in publicly assisted housing, the amount you owe for rent is usually a portion of your income. If your income has gone down due to the pandemic, here is a tool to help you recalculate your portion of the rent and create a letter to send to your local housing authority.

Fannie Mae and Freddie Mac also took actions to protect renters living in apartment buildings secured by their loans.

Freddie Mac's Multifamily COVID-19 Program for Landlords

Under Freddie Mac's Multifamily COVID-19 Relief Program, landlords with a Freddie Mac multifamily loan may contact their lender and request a forbearance on their loan for up to 90 days. Forbearance may be granted only if a property's operations have been adversely affected by COVID-19. In exchange, landlords must agree to suspend evictions for tenants who are adversely impacted by COVID-19 for the duration of the forbearance period. Freddie Mac encourages renters to contact their landlord or management company to determine if they are participating in Freddie Mac's relief program. Visit Freddie Mac's website for more information.

Fannie Mae's Multifamily Response to COVID-19

Under Fannie Mae's new multifamily guidance for COVID-19, landlords with a Fannie Mae multifamily loan may contact their lender and request a forbearance on their loan for up to 90 days, if the borrower is experiencing financial hardship. In exchange for forbearance, landlords are prohibited from evicting tenants who are experiencing financial hardship because of the pandemic.

In addition, Fannie Mae offers the Disaster Response Network to residents living in apartments financed by a Fannie Mae lender. The Network provides housing counselors and other services for residents in order to guide them through the recovery process. Residents are encouraged to check with their property manager or building owner for more information.

As mentioned above, in addition to the CARES Act's protections, many state and local governments have enacted laws protecting all renters from eviction. LDF encourages state and local governments to immediately implement similar actions to protect all renters from eviction during the pandemic, if they have not already done so.

What is Needed to Protect Black Homeowners and Renters

To ensure that the most vulnerable members of our society receive adequate protection from foreclosures and evictions, we recommend that federal, state, and local officials adopt the following policies:

Protect Low-Income Renters

All renters should be protected from evictions during the pandemic. While many renters are protected by eviction for at least the next few months under the CARES Act, those provisions are limited and apply only to certain covered properties. The Urban Institute has estimated that the CARES Act extends its eviction protections to only 28% of the overall rental market. Many tenants will not be covered by the Act's provisions or the stimulus payment (discussed below) will be insufficient to cover their rent, placing them at risk of eviction.

Provide Further Rental Assistance

While eviction moratoriums safeguard vulnerable tenants from being forced out of their homes during the pandemic, more needs to be done to minimize the financial hardship that tenants may face once the national health crisis ends. Tenants are still responsible for their rent despite the implementation of the CARES Act and other eviction moratoriums. Thus, a tenant who has accumulated significant arrears may be threatened with eviction once any applicable moratorium is lifted. This is especially true for low-income individuals who may have recently lost their jobs and cannot afford to pay their rent. In fact, some landlords have already warned their tenants that rent must be paid when due and late fees will still be assessed despite the implementation of statewide eviction moratoriums.

The CARES Act will provide a maximum of $1,200 to every adult earning up to $75,000, $2,400 for joint tax filers earning up to $150,000, and $500 for every child. Although some may argue that this amount should be sufficient, it is important to note that the median rent amount in the United States was $1,012 in 2017, and rent amounts vary greatly across the country. In addition, a one-time direct payment may not be enough considering the uncertainty of when the pandemic will end.

To ensure that low-income renters are not faced with eviction or homelessness now or once the moratorium is lifted, federal, state, and local governments must provide emergency rental assistance to low-income renters, particularly those who have suffered financially because of COVID-19.

Who is Eligible to Receive a Stimulus Check?

The U.S. government recently enacted the CARES Act, which will provide direct cash payments to eligible Americans. Eligibility is determined by a person's income. Eligible adults earning up to $75,000 will receive $1,200, and couples earning up to $150,000 will receive up to $2,400. The amount decreases by $5 for every $100 earned. Individuals who earned $99,000 or more and couples that earned $198,000 or more are not eligible to receive a payment. In addition, the CARES Act will send families $500 for each dependent child under the age of 17. Stimulus payments will be sent to the direct deposit information or mailing address from your 2018 or 2019 tax return. Payments are being issued now.

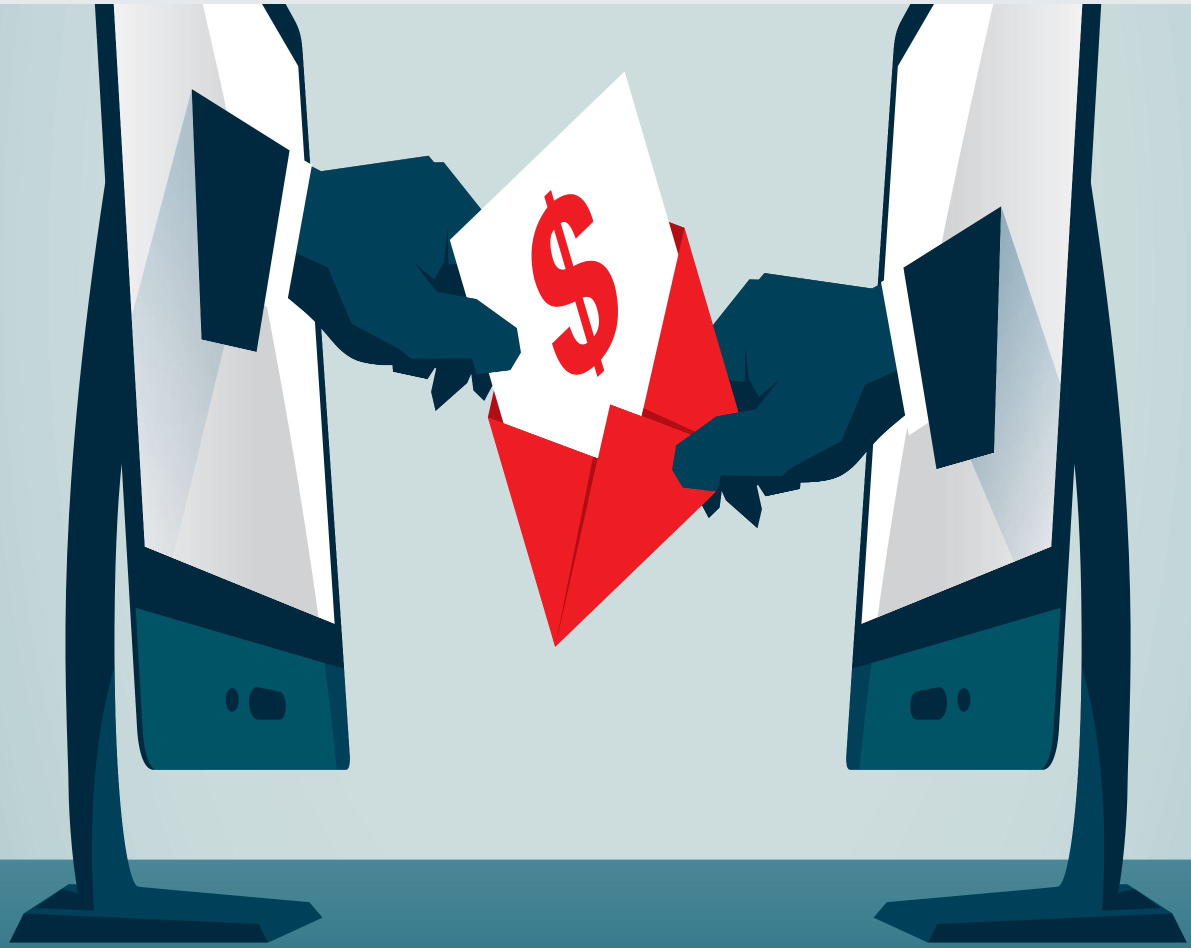
The Internal Revenue Service ("IRS") will use a person's 2019 tax returns to determine eligibility. If a person has not filed a 2019 tax return, their stimulus check will be based on their 2018 tax return. Recipients of Social Security, Social Security Disability Insurance, and Railroad Retirement benefits who are not typically required to file a tax return do not need to take any action to receive their payments.

Other individuals such as low-income workers and certain veterans and persons with disabilities who are not required to file a tax return may still be eligible for a stimulus payment. Please visit the IRS website to determine whether you need to file anything with the IRS to receive your payment or for more information.

Beware of Scams and Potential Garnishment of Payments

The IRS has warned taxpayers to be aware of scams related to the economic impact payments. The IRS will not call, text, email you, or contact you on social media asking for your personal or bank account information. Be aware of emails with attachments or links that claim to have information about the payments or tax refunds.

You should be aware that your payment could be garnished if you owe debts from a court judgment. While the CARES Act protects your payments from garnishment from state or local governments, it could be seized by a private creditor. Please see this helpful article from the National Consumer Law Center on how to protect your payment from garnishment.



Ban Water Shutoffs and Restore Water Service

It is also imperative that state and local governments implement moratoriums on water shutoffs during the pandemic. The COVID-19 outbreak is an unprecedented public health crisis, and water—while always crucial for our survival—is especially necessary to prevent the virus from spreading further. As Sherrilyn Ifill, LDF's President and Director-Counsel, noted during a Marketplace interview, water service shutoffs "should not be on the list of worries that people who are struggling financially have along with keeping themselves safe from this pandemic." Families should be able to access water and other essential services regardless of their ability to pay. In addition, water service should be restored to customers whose service was disconnected prior to the pandemic.

Numerous jurisdictions across the country have implemented moratoriums on water service shutoffs while restoring service to residents who have had their service shut off. LDF calls for the implementation of a moratorium on all water and other utility shutoffs for the remainder of the national health crisis, the reconnection of water and other utility services for all customers previously disconnected for nonpayment or other reasons, and for the forgiveness of bills owed during this period. For example, LDF has called on individual state governors to implement statewide moratoriums on shutoffs and the restoration of water service for disconnected customers. State and local officials should also explore the use of federal funding to assist residents with water bills. Failure to take actions like these could exacerbate the pandemic by leaving our most vulnerable citizens at greater risk of contracting the virus.

Eligibility for Relief During the Pandemic

Numerous jurisdictions have banned residential utility cutoffs and authorized reconnections of water and other services. The advocacy organization Food & Water Watch is maintaining a list of the shutoff and reconnection policies of municipalities across the country. Residents should contact their utility providers to determine if they are eligible for service reconnection during the pandemic.

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The NAACP Legal Defense and Educational Fund, Inc.

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