

## Government of the District of Columbia

### Department of Insurance, Securities and Banking

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Acting Commissioner

#### **FAQs and Guidance: Residential Mortgage and Commercial Mortgage Deferment Program**

Mortgage Relief for District of Columbia borrowers is outlined in Section 202 of the District of Columbia's COVID-19 Response Supplemental Emergency Amendment Act of 2020 (the "Act"). The Act details the requirement for "mortgage lenders", as defined in the Act, to develop and implement a deferment plan for **residential** mortgage loans or **commercial** mortgage loans in the District of Columbia.

**1. Who are considered mortgage lenders under the Act?**

The Act defines a mortgage lender as any person who makes a mortgage loan to any person or who engages in the business of servicing residential or commercial mortgage loans for others; or who collects or otherwise receives mortgage loan payments directly from borrowers for distribution to any other person.

A mortgage lender as set forth in the Act does not include loans made or serviced by a national bank or federally-chartered credit union. It further exempts any loan owned or insured by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration or other housing or other housing or urban development programs administered by the Department of Housing and Urban Development, the Department of Veteran Affairs, the Department of Agriculture, or the Government National Mortgage Association.

**2. If the law exempts loans that are federally backed loans under the recently enacted CARES Act, what does that mean for the borrower?**

If your loan is federally backed, your options and flexibility under forbearance and in repayment may be different than under District law.

**3. How do I know if my loan is federally backed?**

Most mortgages are federally backed, and you can check this in a few different ways. First, you can call your mortgage servicer using the phone number on your monthly statement or the company's website. The servicer has an obligation to provide you, to the best of its knowledge, the name, address, and telephone number of who owns your loan. Your mortgage documents and note may also tell you, especially if you have a Veterans Administration or Federal Housing Administration loan. The Consumer Financial Protection Bureau has a guide with important information and links to the guidance that

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the federal agencies and entities are giving as well as the availability of a “loan look up” tool to gather information about your loan.

Click here: [consumerfinance.gov/about-us/blog/guide-coronavirus-mortgage-relief-options/](https://consumerfinance.gov/about-us/blog/guide-coronavirus-mortgage-relief-options/)

**4. Under District law, what must mortgage lenders do?**

A mortgage lender that makes or holds commercial or residential mortgage loans subject to the provisions of the Residential and Commercial Mortgage Deferment Program must develop and implement a deferment program for borrowers that, at a minimum:

- Grants at least a 90-day deferment period of mortgage payments for borrowers;
- Waives any late fee, processing fee, or any other fee accrued during the pendency of the public health emergency; and
- Does not report to a credit reporting agency as delinquent the amounts subject to the deferral.

National banks and federally-chartered credit unions are encouraged to voluntarily provide the mortgage relief and data reporting described in this bulletin.

**5. How should borrowers apply for the mortgage deferment plan?**

The mortgage lender with loans subject to the provisions of the Residential and Commercial Mortgage Deferment Program must create application criteria and procedures for borrowers to apply for the deferment program. An application or summary of procedures shall be made available either online or by telephone. All mortgage lenders must send the application and procedures to the Department of Insurance, Securities and Banking using the following email address: [mortgagerelief@dc.gov](mailto:mortgagerelief@dc.gov), no later than June 4, 2020.

*Reporting Requirements*

Mortgage lenders must submit an initial report (“Mortgage Deferment Status Report”) to the Department at [mortgagerelief@dc.gov](mailto:mortgagerelief@dc.gov) on or before June 4, 2020, and update that report in fifteen (15) day intervals for the duration of the public health emergency, and sixty (60) days after the emergency concludes.

The Mortgage Deferment Status Report must provide the number of mortgage deferment applications that have been approved and include the name of the borrower, the property address, the type of mortgage the borrower holds (residential or commercial), the period of deferment.

The Mortgage Deferment Status Report will only have to be submitted to the Department for the duration of the public health emergency, and 60 days after the emergency concludes.

National banks and federally-chartered credit unions are encouraged to voluntarily provide a Mortgage Deferment Status Report to the Department that contains the information described in this paragraph.

**6. What criteria should a mortgage lender use to review and approve the deferment applications?**

The mortgage lender must approve each application in which a borrower:

- Demonstrates evidence of a financial hardship resulting from the public health emergency, including an existing delinquency; and agrees in writing to pay the deferred payments within a reasonable time agreed to by the borrower and the mortgage lender; or three (3) years from the end of the deferment period, or the end of the original term of the mortgage loan, whichever is earlier.

**7. Can a lump sum payment be required?**

For loans subject to the provisions of the Residential and Commercial Mortgage Deferment Program, a mortgage lender is prohibited from requiring a lump sum payment from any borrower making payments under a deferred payment program.

**8. What if my application for mortgage deferment is denied?**

A person or business whose application for deferment is denied may file a written complaint with the Commissioner for formal investigation of the complaint. Please note, if your loan is “federally-backed” the federal CARES Act does not require you to apply for forbearance. You need to call your servicer and explain that you have a pandemic-related financial hardship.

**9. What accommodations to tenants are borrowers required to make?**

A borrower receiving a mortgage deferral on a property that has a Qualified Tenant (residential or commercial) shall, within five (5) days of the approval, provide written notice of the deferral to all tenants including, but not limited to, posting notice of the deferral approval in a common area of the property that is visible to all tenants.

The borrower also must work with tenants to develop a rent deferment and repayment plan.

**10. Record-Keeping and Compliance**

A mortgage lender who receives an application for deferment must retain the application, whether approved or denied, for at least three (3) years after final payment is made on the mortgage or the mortgage is sold, whichever occurs first. Additionally, a mortgage lender must make the application for deferment available to the Commissioner upon request.

Mortgage lenders shall make a good faith effort to comply with federal mortgage servicing rules and regulations (e.g., Regulation X) while implementing the Mortgage Loan Deferment Plan.

**Definitions**

For the purposes of Section 202 of the Act, the term:

1. “Commercial mortgage loan” means a loan for the acquisition of real property, or a loan secured by collateral in such real property, that is owned or used by a person or business for the purpose of generating profit, and shall include real property used for single-family housing, multifamily housing, retail, office space, and commercial space.
2. “Commissioner” means the Commissioner of the Department of Insurance, Securities, and Banking.

3. “Mortgage lender” means any person that makes a mortgage loan to any person or who engages in the business of servicing mortgage loans for others or collecting or otherwise receiving mortgage loan payments directly from borrowers for distribution to any other person.

If you have additional questions regarding the Residential Mortgage and Commercial Mortgage Deferment Program, contact the Department’s Banking Bureau via email at [mortgagerelief@dc.gov](mailto:mortgagerelief@dc.gov). For updates on the District’s response to the coronavirus (COVID-19), visit [coronavirus.dc.gov](https://coronavirus.dc.gov).

### **About DISB**

The mission of the Department of Insurance, Securities, and Banking (DISB) is three-fold: cultivate a regulatory environment that protects consumers and attracts and retains financial services firms to the District; (2) empower and educate residents on financial matters; and (3) provide financing for District small businesses.

#### **Special Note**

If District law is inapplicable, what relief is available under the federal CARES Act?

- Protects homeowners
- No foreclosures from March 18, 2020 to May 17, 2020. Fannie Mae, Freddie Mac, FHA, VA, and USDA have extended this through at least June 30, 2020. Borrowers who receive forbearance will be protected for the period of forbearance under Regulation X.
- Right to request forbearance (delay on having to make mortgage payments or a reduction on those payments) if you experience financial hardship from coronavirus pandemic for up to 180 days.
- Extensions for another 180 days.
- Borrowers must contact loan servicers – by phone or online
- No penalties, fees, or additional interest beyond the scheduled amounts if you get forbearance
- Still must pay back amounts deferred.
- Eligibility is not affected by delinquency status – can be behind on payments before March 2020 and still be eligible.