

Financial Wellness Workshop

HERA

housing and
economic
rights advocates

Options and Protections for
Homeowners During the COVID-19
Health Crisis

Housing Costs for Homeowners

Each of these can turn into foreclosure risks:

- Mortgage
- Property taxes (including PACE assessments)
- Homeowners insurance
- Escrow accounts
- HOA/Condo Fees
- Maintenance and repairs (e.g. mechanic's lien, PACE assessments – can lead to lawsuit and judgment)

The Non-Judicial Foreclosure Process

- Mortgage lenders can foreclose without filing a lawsuit
- Missed mortgage payments (minimum 120 days/4 months) →
- **Notice of Default** recorded →
- Three-month resolution period →
- **Notice of Trustee's Sale** recorded and posted →
- 20-day notice period →
- Sale of property at auction
- Post-foreclosure notices and proceedings
 - * No lock-outs!
 - * Eviction process
 - * Tenant rights
 - * Cash for Keys

Mortgage Options for Keeping the Home

- Refinance

- Not available if borrower is in default/foreclosure
 - Limited availability if property is underwater

- Reinstatement

- Must be paid at least 5 days before scheduled foreclosure. Complete payoff can be made anytime before foreclosure sale.

- Repayment plan

- Forbearance for temporary hardship

- Includes proprietary (private lender) forbearance plans, unemployment forbearance plans, and COVID-19 forbearance plans for government loans

- Loan modification

- Litigation victory or settlement

What happens to my mortgage if my income has been impacted by the COVID-19 crisis?



Your options depend on the type of loan you have and who is servicing your loan.

Federally-backed mortgages have significant protections.

Options for non-federally-backed mortgages are piecemeal.

What is a “federally-backed” mortgage?

A federally-backed mortgage is one that is owned or backed (insured) by a federal agency.

This includes:

- **Fannie Mae and Freddie Mac (“GSE”)** mortgages
- **Federal Housing Administration (“FHA”)** loans
- **Veteran’s Administration (“VA”)** loans
- **Department of Agriculture (“USDA”)/Rural Housing Service (“RHS”)** loans

NOTE: Just because your loan started out as a federally-backed loan, does not mean it is still a federally-backed loan. It may have been sold after the loan was originated. Thus, it is important to double check what type of loan you have.

How can I check what type of loan I have?

Fannie Mae/Freddie Mac ("GSE") Mortgages

Use the loan look-up tools online:

- Fannie: <https://www.knowyouroptions.com/loanlookup>
- Freddie: <https://loanlookup.freddiemac.com/>

Federal Housing Administration (FHA)

- Check your mortgage closing documents for an FHA case number or specific references to FHA; or
- Check mortgage statement for FHA mortgage insurance premium charge; or
- Check property records (if available online) for a second deed of trust in favor of the HUD Secretary;
- Ask your servicer; or
- Call HUD's National Servicing Center (877/622-8525).

Veteran's Administration (VA)

- Check mortgage documents for specific references to the VA and closing documents for fees paid to the VA; or
- Ask your servicer.

What if I still cannot figure out what kind of loan I have?

For all loans, you can mail a “**Request for Information**” to your loan servicer.

- Make sure you mail the request to the correct address (listed on your mortgage statement or available on servicer’s website)!
- They must provide a response in 10 business days.
- You can find sample requests and instructions on the Consumer Financial Protection Bureau’s website: <https://www.consumerfinance.gov/ask-cfpb/how-can-i-tell-who-owns-my-mortgage-en-214/>
- HERA can also help you submit a Request for Information

You want to ask the servicer for the following:

- Identity of, and address or other relevant contact information for, the owner or assignee of my mortgage loan;
- the full name, address, and contact information for any trust that owns the loan and the trustee; or
- any federally related entity that owns, insures, or guarantees my loan, including Fannie Mae, Freddie Mac, the Federal Housing Administration, or the U.S.D.A. Rural Housing Service

I determined that I have a federally-backed mortgage, so now what?

If you are experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency, you are entitled to a forbearance upon request.

FHA, Fannie Mae & Freddie Mac, VA, and USDA borrowers may ask for a forbearance at any time until (at least) the end of the National Emergency. Maximum forbearance periods are generally 12-18 months. If the servicer only offers an initial forbearance of 60 or 90 days, you are entitled to an extension.

Relief is NOT automatic. You must apply for assistance.

- Contact your servicer by phone, email, fax, letter, or online portal and let them know that you are facing financial hardship related to COVID-19.
- The servicer is required to provide forbearance relief with no additional documentation required other than your personal attestation to a financial hardship.

Post-Forbearance Options

Your post-forbearance options will depend on several factors: whether your loan is a federally-backed loan or private, your servicer, the investor/owner of your loan, whether you were current on your payments or behind at the beginning of the COVID-19 crisis.

Each type of **government-backed loan** has a “waterfall” of options that servicers must consider in order. HERA can help you figure out which rules apply to your loan.

Common terms include:

Reinstatement: Pay forborne amount in full

Repayment Plan: Pay forborne amount in installments added to monthly mortgage payment

Deferral: Defers repayment of principal and interest arrears + escrow advances as lump sum at the end of loan (Note: exact amounts deferred may vary per servicer)

Modification: Targets a reduction in the P&I portion of the Borrower’s monthly mortgage payment by revising the terms of the loan

Partial Claim or Mortgage Recovery Advance: Loan insurer pays outstanding indebtedness and that amount becomes a zero-interest subordinate lien (for FHA, VA, USDA loans)

Post-Forbearance Loss Mitigation Options for Privately-Backed Loans

If your loan is not federally-backed, your repayment options are often dictated by your servicer and the investor on your loan. However, many servicers are attempting to offer one of the following:

- An extended repayment plan
- A loan modification that capitalizes the missed payments
- A balloon payment at the end of the mortgage

Many mortgage companies require full payment at the end of the forbearance period.

The clearest way to know your repayment options is to send a Request for Information to your loan servicer, explicitly asking if there are any restrictions on loss mitigation options that apply to your loan.

A Few Extra Notes on Loan Modifications

Factors affecting your realistic options

- Default/foreclosure status
- Underwater vs. equity in the property
- Sustainability (need to be able to afford new payments)
- Who is the mortgage servicer? Who is the investor or guarantor? (federally backed or private investor owned?)

Loan Modification Application should be submitted at least five business days before a scheduled foreclosure sale

Dual Tracking is prohibited under the California Homeowners Bill of Rights and Regulation X of the federal RESPA, but you need to submit a “**complete application**” (no foreclosure while application is under review and pending appeal period or before an offer is accepted or rejected)

Loan Modification Application Components

A “complete application” will usually require the following, at a minimum:

- Servicer’s application form
 - Most recent income tax return
 - IRS Form 4506-C (request for transcript of tax return)
 - Proof of income for at least 2 months
 - Most recent 2 months’ bank statements
 - Documentation from any non-borrower contributors
- **Try to submit all documentation promptly – documents that are over 90 days old will “expire”**
- **Include all pages of tax returns and bank statements, even if they are blank**
- **Keep copies of everything you send**

Options for Dealing with Property Taxes

Delinquent Property Taxes

- Repayment Plan with County Assessor's Office (requires 20% down payment). **Repayment plans are available until 5 years from default.**
- Some cities and counties offer reinstatement assistance (Alameda County, Oakland, San Francisco HELP Loan)

Property Tax Reassessment can affect the amount due. Contact HERA for information about reassessment exemptions and escape assessment appeals

Future Property Taxes

- Check eligibility for exemptions for seniors and disabled veterans
- California State Property Tax Postponement Program for senior, blind or disabled homeowners (applications available in September, call (800) 952-5661 or email postponement@sco.ca.gov)

California Mortgage Relief Program is now accepting applications to cover past-due property taxes: <https://camortgagerelief.org/>

Homeowners Association (HOA) Delinquencies

- **Limits on Foreclosure Activity** – The HOA cannot foreclose on a homeowner’s property unless the amount of assessments owed (NOT including late fees, interest, costs of collection, or other amounts) is more than \$1,800 or more than 12 months old. See Cal. Civ. Code §5720.
- **Right to Make Partial Payments** – If a homeowner makes a payment to the HOA (even if the amount is less than the full amount demanded on the homeowner’s account), the HOA (and its collection agent) is required to accept that payment.
- **Order of Application of Payments** – Payments made by a homeowner must first be applied towards assessments owed. Only after assessments owed are paid in full should homeowner payments be applied to any other charge, including the fees and costs of collection, attorney's fees, late charges, or interest.
- The Community Associations Institute released the following guidance***:
<https://www.caionline.org/Pages/covid19foreclosures.aspx>

*** These are not enforceable rules, but can be very persuasive to get your HOA to work with you

Reinstatement Assistance Programs

STATE RELIEF: California Mortgage Relief Program (mortgage payments and property taxes) <https://camortgagerelief.org/>

Eligibility:

- Experienced a COVID-19 hardship
- Owner-occupant of single-family home, condo, or manufactured home
- Household income at or below 150% AMI
- Missed at least 2 mortgage payments before June 30, 2022 (for mortgage assistance) – maximum \$80,000 assistance available
- Missed at least 1 property tax payment before May 31, 2022 (for tax assistance) – maximum \$20,000 assistance available

LOCAL RELIEF: San Francisco Homeowner Emergency Loan Program (HELP)

<https://sfmohcd.org/help-loan>

*Relief programs are available in other counties too. Contact HERA.

Bankruptcy as Last Resort

- Talk to a qualified bankruptcy attorney
- Chapter 13: asset preservation
- Will need to continue to make mortgage payments moving forward while working out a plan to pay the past due payments
- Possible advantages: automatic stay on debt collection; lien stripping; removing unsecured debt
- Be wary of people who you pay to just file paperwork and then don't stick around to help you through bankruptcy (very complicated rules involved)

Beware of Foreclosure Rescue Scams!

Scammers are always looking to take advantage of people in desperate situations. Always be wary of companies or individuals that:

- Charge a **high up-front fee** for their services
- **Promise to get you** a loan modification
- **Promise to reduce** your loan balance
- Ask you to sign over your **property title**
- Offer to **buy your house from you** temporarily
- Promise to **file a lawsuit as leverage** to get your lender to negotiate with you
- Ask you to sign **papers you don't understand**
- Tell you to make payments to **someone other than your servicer**
- Tell you to **stop making payments** altogether
- Ask for **credit card numbers** and other personal information



Reporting Foreclosure Rescue Scams

If you get caught up in a foreclosure rescue scam, report it to:

- The police
 - Consumer Financial Protection Bureau (CFPB)
<https://www.consumerfinance.gov/complaint/> | (855) 411-2372
 - Federal Trade Commission (FTC)
<https://reportfraud.ftc.gov/> | (877) 382-4357
 - Attorney General's office
<https://oag.ca.gov/contact/consumer-complaint-against-business-or-company>
 - Department of Financial Protection and Innovation (DFPI)
<https://dfpi.ca.gov/file-a-complaint/>
 - State Bar (for attorneys/law firms)
<https://www.calbar.ca.gov/Public/Complaints-Claims> | (800) 843-9053
- **Stop communicating with them** ➤ **Call HERA or a HUD Certified Mortgage Counselor**

CFPB page on avoiding COVID scams: <https://www.consumerfinance.gov/coronavirus/avoiding-scams/19>

Shared Equity Agreements

While shared equity agreements may not be scams per se, they may contain hidden terms or have unintended consequences.

What is a shared equity agreement?

- Also known as shared appreciation agreements
- Advertised as a hassle-free way to access your home's equity
- Often advertised as “not a loan” or “no monthly payments”
- Investors offer you cash (a loan) in exchange for the right to a percentage of the appreciated value of your home at a certain date
- For instance, a contract may grant the investor 50% of appreciated value after 10 years. if your home's value was \$600,000 at the time you entered into the agreement 10 years ago, and is now worth \$800,000, you owed the investor a lump sum of \$100,000
- If at the due date you cannot come up with the money, refinance with a traditional mortgage, or sell your house, the contract may allow the investor to foreclose
- Laws governing mortgage foreclosures would not apply
- More info: https://www.nclc.org/images/pdf/special_projects/covid-19/IB_Shared_Equity.pdf

HERA Provides An Array of Legal-Financial Counseling Services

HERA's Services

Debt Collection	<ul style="list-style-type: none">• Student loan• Auto loan• Medical debt• High cost loans (auto-title, payday, check cashing)• Home Owners Association (HOA)
Credit Reporting	<ul style="list-style-type: none">• Identity theft• Accessing credit report• Denial of credit or loan because of credit report• Errors on credit report
Financial Products Recommendations	<ul style="list-style-type: none">• Affordable small dollar loans• Credit building products
Mortgages	<ul style="list-style-type: none">• Foreclosure prevention and mortgage servicing issues
Veterans & Service members	<ul style="list-style-type: none">• Enforcing special protections and assisting with special resources for veterans and service members
Estate Planning	<ul style="list-style-type: none">• Simple wills, trusts, health directives, and power of attorney (*sliding scale fee for services)

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www.heraca.org

Our services are free!*