

Cares Act Mortgage Forbearances: Where is the Peak?

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On April 16, 2020, Black Knight Inc., a leading provider of mortgage and lending analytics, reported that 5.5% or 2.9 million homeowners have entered into CARES Act Forbearance Plans. As of May 7, 2020, Black Knight Services is now reporting that the number of borrowers entering forbearance agreements has increased to nearly 4.1 million or 7.7% of all U.S. mortgages. While media outlets are reporting lower mortgage call volume, the peak of forbearance requests may not have occurred.

Under the CARES Act, mortgagors with FHA/VA or GSE backed loans, regardless of whether or not they are delinquent on their mortgage payments, may request an initial six (6) month forbearance so long as they affirm that they have been impacted by COVID-19 pandemic. During the initial six (6) month forbearance period, the mortgagor may request an additional six (6) month extension of the forbearance. The CARES Act permits mortgagors to request a forbearance agreement until the National Emergency is terminated or until December, 31, 2020, whichever occurs first.

Presently, subject to further limitations imposed by individual states, the HUD Foreclosure Moratorium on government backed loans is set to expire on May 18, 2020. On May 14, 2020, Fannie Mae and Freddie Mac announced they were extending the Foreclosure Moratorium until June 30, 2020. It is unlikely the end of either Foreclosure Moratorium will coincide with the termination of the National Emergency.

Lenders and servicers must continue to dedicate sufficient resources to their loss mitigation processors and must monitor individual state limitations on proceeding with foreclosure or other collection activities once the Moratoriums expire. The impact of the COVID-19 pandemic on the mortgage industry will not be fully realized until the Moratoriums terminate and mortgagors at or near default are subject to foreclosure activity. Once lenders and servicers resume proactive steps in furtherance of foreclosure prosecutions, a new wave of forbearance requests is to be expected.

For more information about CARES Act Forbearance Agreements please contact Attorney Kevin J. Cummings by phone at (412) 594-3945 or by email at kcummings@tuckerlaw.com.