



Office of Public & Indian Housing



# Section 184/184A Indian Loan Guarantee Program



## **DLL 2020-06 Overview**

**Office Of Loan Guarantee**

**Krisa Johnson – Director**

**Jeffery Glass – Deputy Director**

# PURPOSE

- The purpose of this Dear Lender Letter (DLL) is to inform lenders of the special loss mitigation options available to Section 184 and Section 184A borrowers under Section 4022 of the CARES Act, and the 120-day eviction moratorium that is currently in place pursuant to Section 4024 of the Act.
- This DLL also extends the foreclosure moratorium initially provided under the CARES Act until June 30, 2020 and extends loans processing flexibilities related to appraisals, verification of employment and IRS transcripts.
- Furthermore, this DLL supersedes PIH Notice 2015-15, *Section 184 Indian Loan Guarantee Program Disaster Policy*, for borrowers impacted by the Coronavirus Disease 2019 (COVID-19) National Emergency.



## Exclusion of COVID-19 from PIH Notice 2015-15, Section 184 Indian Loan Guarantee Program Disaster Policy

Borrowers impacted by the COVID-19 National Emergency are subject to the policies outlined in this DLL, in lieu of PIH Notice 2015-15 *Section 184 Indian Loan Guarantee Program Disaster Policy* for the purposes of this National Emergency only.

Lenders must convert borrowers placed on alternative plans to the Forbearance for Borrowers Affected by the COVID-19 National Emergency immediately.



## Forbearance for Borrowers Affected by the COVID-19 National Emergency

- Borrower must make request by mail, email or telephone and MUST attest to a financial hardship due to the COVID-19 National Emergency
- Upon receipt, lender must offer a Forbearance for Borrowers Affected by the COVID-19 National Emergency
- The Forbearance allows 1 or 2 periods of reduced payments w/o specific terms of repayment
- Initial Forbearance Period must be up to 180 days
- Immediate additional extension up to another 180 days may be requested and lender must approve
- Term of initial or extension may be shortened at borrower's request
- **NO ADDITIONAL FEES, PENALTIES OR INTEREST**



## COVID-19 National Emergency Forbearance Loss Mitigation Advance

- Exclusion from provisions on Forbearance and Partial Claims in PIH Notice 2014-11 (paragraph 8, *HUD Approved Relief Procedures*)
- For Section 184A, this DLL establishes new guidance for Loss Mitigation Advances.
- COVID-19 National Emergency Forbearance Loss Mitigation Advance is similar but not identical to a partial claim
- Borrowers NOT subject to requirements under PIH Notice 2014-11 (paragraph 7, *Loss Mitigation Procedures*)



## (A) Eligibility for COVID-19 National Emergency Forbearance Loss Mitigation Advance

- Mortgage was current or less than 30 DPD as of Feb 1, 2020
- Borrower Indicates the ability to resume making on-time payments
- Property is owner-occupied



## (B) Terms of the COVID-19 National Emergency Forbearance Loss Mitigation Advance

- Borrower's accumulated late fees **WAIVED**
- Includes only arrearages (**PITI ONLY, NO OTHER FEES**)
- COVID-19 LMA plus any prior LMA's don't exceed **30% of UPB**
- The LMA Limit remains constant for life of mortgage
- The LMA Limit is established using the following:







## (B) Terms of the COVID-19 National Emergency Forbearance Loss Mitigation Advance

**Two months after initial default (Nov. 2017), Loss mitigation efforts resulted in \$5K Partial Claim or LMA to lender.**

**The COVID-19 Loss Mitigation Advance does not exceed the Available Loss Mitigation Advance Remaining. The Available Loss Mitigation Advance Remaining is established using the formula below:**

• Loss Mitigation Advance Limit	-	Existing HUD Loss Mitigation Advance Liens	=	Available Loss Mitigation Advance Remaining
Ex. - \$30K	-	\$5K	=	\$25K

- **The Available Loss Mitigation Advance Remaining is the maximum allowable advance authorized under the COVID-19 Loss Mitigation Advance.**
- **The borrower receives only one COVID-19 National Emergency Loss Mitigation Advance for the purpose of a COVID-19 National Emergency initial and extended Forbearance.**



# Required Documentation for Section 184 COVID-19 National Emergency Forbearance Loss Mitigation Advances

## **(A) COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note and Subordinate Mortgage/Deed of Trust**

1. Full Section 184 Case Number
2. Substantially similar to the COVID-19 National Emergency Forbearance Loss Mitigation Promissory Note and Subordinate Mortgage/Deed of Trust model documents to be posted on [www.hud.gov/codetalk](http://www.hud.gov/codetalk)
3. Any amendment required by state or federal law or regulations
4. Note must be executed by borrower in favor of the Secretary of The Department of Housing and Urban Development
5. Mortgage/Deed of Trust must be executed by borrower
6. Mortgage/Deed of Trust must be submitted to applicable county recording office, BIA, Regional LTRO, or Tribal LTRO for recordation within 5 days of borrower's signature
7. Lender must ensure recordation of Mortgage/Deed of Trust does not jeopardize first lien status of Section 184 loan.



# Required Documentation for Section 184 COVID-19 National Emergency Forbearance Loss Mitigation Advances

## **(B) Lender Must Deliver To HUD:**

- **Original Executed COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note – NO Later than 60 Days from Execution Date**
- **Original Recorded COVID-19 National Emergency Forbearance Loss Mitigation Advance Subordinate Mortgage/Deed of Trust – NO than 6 Months from Execution Date**
- **A Cover Letter with Section 184 Case Number**

## **(C) Lender Must Keep in their files:**

- Evidence of the date the lender received the executed COVID-19 National Emergency Forbearance Loss Mitigation Advance documents from the borrower.
- Evidence of the date the COVID-19 National Emergency Forbearance Loss Mitigation Advance Subordinate Mortgage/Deed of Trust was submitted for recordation.
- A copy of the executed COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note.
- A copy of the recorded COVID-19 National Emergency Forbearance Loss Mitigation Advance Subordinate Mortgage/Deed of Trust



# Required Documentation for Section 184A COVID-19 National Emergency Forbearance Loss Mitigation Advances

## **Section 184A Documentation Requirement vs Section 184**

No Subordinate Mortgage for Section 184A

- DHH (Department of Hawaiian Homelands) has restrictions on Subordinate Mortgages
- HUD wanted to provide relief despite these restrictions

Effect of Section 184A Forbearance Loss Mitigation Advance will be same for Lender/Borrower

Other Documentation Requirements Same as Section 184 Documentation Requirements Noted Above



# Reconciliation of COVID-19 National Emergency Forbearance Loss Mitigation Advances

## **Lender Miscalculation of COVID-19 National Emergency Forbearance Loss Mitigation Advance Amount:**

Resulting in an overpayment to lender

- Lender must remit overpaid amount immediately to HUD using [www.pay.gov](http://www.pay.gov).
- Lender must indicate the repayment purpose in the comments.
- Lender must send an email to the [Section184Claims@HUD.gov](mailto:Section184Claims@HUD.gov) notifying HUD of the payment, including the amount, borrower's last name, and Section 184/184A Case Number

Lender claimed less than the actual COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note amount

- Lender must absorb the cost of the miscalculation.

Lender must include their review process for ensuring the accurate calculation of COVID-19 National Emergency Forbearance Loss Mitigation Advance in their required Quality Control Plan.



## General Provisions for Loss Mitigation for Borrowers Affected by COVID-19 National Emergency

### **(A) Required Financial Evaluation COVID-19 National Emergency Loss Mitigation**

The lender must evaluate any Section 184/184A borrower not brought current through a COVID-19 National Emergency Loss Mitigation Advance for the following loss mitigation options:

- Loan Modifications
- Pre-Foreclosure Sales
- Deed-in-Lieu or Lease-in-Lieu
- Lenders must comply with the requirements in PIH Notice 2014-11, paragraph 7, *Loss mitigation Procedures* for Section 184 borrowers.
- For Section 184A borrowers, HUD recommends lenders also follow these procedures.



# General Provisions for Loss Mitigation for Borrowers Affected by COVID-19 National Emergency

## **(B) Terms of the Mortgage are Unaffected**

- Nothing in this DLL confers any right to a borrower to any loss mitigation or any other action by HUD or the lender beyond the COVID-19 National Emergency Forbearance.
- The lender must comply with all provisions of the CARES Act.
- Where a lender chooses to enforce its contractual rights after expiration of a Forbearance for Borrowers Affected by the COVID-19 National Emergency, the standard time frames to initiate foreclosure and reasonable diligence in prosecuting foreclosure following expiration of a foreclosure moratorium will apply.

## **(C) Reporting to Consumer Reporting Agencies of Borrowers Impacted by COVID-19 National Emergency**

- Any Borrower who is granted a Forbearance for Borrowers Affected by the COVID-19 National Emergency and is otherwise performing as agreed is not considered to be delinquent for purposes of credit reporting.
- HUD requires servicers to comply with the credit reporting requirements of the Fair Credit Reporting Act (FCRA); however, HUD encourages servicers to consider the impacts of the COVID-19 National Emergency on the borrower's financial situation and any flexibilities a servicer may have under the FCRA when taking any negative credit reporting actions.





# Reporting Requirements for Lenders and Services for Borrowers Under COVID-19 National Emergency

Section 184/184A Servicing Report requirements have been amended to include the following COVID-19 National Emergency data fields:

<b>COVID-19 Forbearance Conversion Y/N</b>	<b>COVID-19 Initial Forbearance Start Date</b>	<b>COVID-19 Initial Forbearance End Date</b>	<b>COVID-19 Forbearance Extension Start Date</b>	<b>COVID-19 Forbearance Extension End Date</b>	<b>COVID-19 Advance Execution Date</b>	<b>Loss Mitigation Advance Limit</b>	<b>COVID-19 Advance Amount</b>	<b>Available Advance Amount Remaining</b>
--	--	--	--	--	--	--	------------------------------------	---

[184Servicing@hud.gov](mailto:184Servicing@hud.gov)

Beginning Mon. June 8 and every week thereafter



## Outreach Requirements for Lenders and Servicers to All Section 184 and 184A Borrowers

- Lenders and servicers must ensure borrowers are informed of all available relief options presented in this DLL.
- Lenders may utilize any available methods for communicating with borrowers regarding the Forbearance for Borrowers Affected by the COVID-19 National Emergency and other loss mitigation options.
- Acceptable methods of communication are emails, texts, fax, teleconferencing, websites, or sending out a general communication

### **Advising borrowers of the Forbearance for Borrowers Affected by the COVID-19 National Emergency**

At a minimum, Lenders should reach out to the following groups of borrowers:

- Outreach to all borrowers by public posting
- Outreach to all borrowers currently in default
- Outreach to all borrowers currently in a loss mitigation plan



# Temporary Moratorium on Evictions

- Rental property held by a tribe or TDHE that is encumbered by a Section 184 guaranteed loan, is subject to a temporary moratorium on eviction. Section 4024(b) of the CARES Act provides an eviction moratorium through July 24, 2020.

**A Tribe or TDHE** providing rental units securing a Section 184 guaranteed loan, may not:

- File with the court of jurisdiction, a legal action to evict or recover possession of the property from the tenant for nonpayment of rent or other fees or charges.
- Charge fees, penalties, or other charges to the tenant related to such nonpayment of rent.

## **The Tribe or TDHE:**

- May not issue a notice to vacate until after July 24, 2020.
- Must provide the tenant with a 30-day notice to vacate after the expiration of the eviction moratorium on July 24, 2020.



## Extension and Clarification of the Foreclosure Moratorium

This action extends the moratorium authorized by the Secretary of the Department of Housing and Urban Development (HUD) on March 20, 2020, in [DLL 2020-04](#) and continues to help minimize the pandemic's financial impact on individuals and families in response to the Presidentially-Declared COVID-19 National Emergency.

The foreclosure moratorium is extended to June 30, 2020, except for vacant or abandoned properties.



## Extension of the flexibilities for the verification of employment, appraisal reviews and IRS tax transcripts

This action extends the effective date of the guidance contained in [DLL 2020-05](#), which provides flexible alternatives for re-verifying a borrower's employment, conducting appraisal reviews and obtaining IRS tax transcripts while physically-distancing during the Presidentially-Declared COVID-19 National Emergency.

The flexibilities in DLL 2020-05 are extended to June 30, 2020.



# Questions

???