



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

OFFICE OF PUBLIC AND INDIAN HOUSING

Date: May 19, 2020

Dear Lender Letter 2020-06

To: All Tribes
All Tribally Designated Housing Entities
All Section 184 Approved Lenders
All Section 184A Approved Lenders

Subject Section 184 Indian Home Loan Guarantee program (Section 184) and Section 184A Native Hawaiian Housing Loan Guarantee program (Section 184A) loss mitigation options and clarification of eviction moratorium under Section 4024 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act); extension of foreclosure moratorium under the CARES Act; and extension of loan processing related flexibilities.

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.

Effective Date The provisions of this DLL are effective immediately.

Background

HUD is working to provide lenders and borrowers with additional loss mitigation options due to the COVID-19 National Emergency, to clarify requirements around these options, and to fully implement the CARES Act. HUD anticipates that financial impacts of the COVID-19 National Emergency on many borrowers will include a combination of wage reduction, job losses or interruptions, and the inability to work for a variety of reasons, such as social distancing directives, a lack of telework options or lack of child care – on top of potential impacts of contracting COVID-19.

To alleviate concerns and burdens, as well as relieve additional stress and uncertainty on borrowers and lenders impacted by the COVID-19 National Emergency, the U.S. federal government is putting forward a number of policies and programs. The eviction moratorium and the loss mitigation options provided in the CARES Act and addressed further in this DLL are part of this broader effort.

Summary of Changes

Changes for borrowers affected by the COVID-19 National Emergency include:

- Exclusion of borrowers impacted solely by the COVID-19 National Emergency from PIH Notice 2015-15, for the purposes of this National Emergency.
 - Forbearance for Borrowers Affected by the COVID-19 National Emergency.
 - COVID-19 National Emergency Forbearance Loss Mitigation Advance.
 - General Provisions for Loss Mitigation for Borrowers Affected by COVID-19 National Emergency.
 - Reporting Requirements for Lenders and Services for Borrowers Under COVID-19 National Emergency.
 - Outreach Requirements for Lenders and Servicers to All Section 184 and 184A Borrowers.
 - Temporary eviction moratorium for tenants occupying properties secured by a Section 184 guaranteed loan taken out by tribes or Tribally Designated Housing Entities (TDHEs).
 - Extension of the foreclosure moratorium set forth in DLL 2020-04 and the CARES Act, except for vacant and abandoned properties.
 - Extension of the flexibilities established for the verification of employment, appraisals and requirement for IRS tax transcripts set forth in DLL 2020-05.
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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 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

If a borrower is experiencing a financial hardship impacting their ability to make on-time mortgage payments due to the COVID-19 National Emergency, the borrower may request from the lender a Forbearance for Borrowers Affected by the COVID-19 National Emergency. The borrower must make this request by mail, email or by telephone and must attest to a financial hardship due to the COVID-19 National Emergency.

Upon receipt of the borrower's request, the lender must offer the borrower a Forbearance for Borrowers Affected by the COVID-19 National Emergency.

The Forbearance for Borrowers Affected by the COVID-19 National Emergency allows for one or two periods of reduced or suspended payments without specific terms of repayment. The initial forbearance period must be up to 180 days. An immediate additional extension of forbearance period of up to another 180 days may be requested by the borrower and the lender must approve. Lenders must ensure borrowers fully understand the forbearance guidelines, providing the maximum flexibilities to the borrower.

The term of either the initial or the extended forbearance may be shortened at the borrower's request

The lender may not charge additional any fees, penalties, or interest beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the Section 184 or Section 184A mortgage contract, during the period that the borrower is on a Forbearance for Borrowers Affected by the COVID-19 National Emergency.

**COVID-19
National
Emergency
Forbearance
Loss Mitigation
Advance**

Section 184 borrowers impacted by the COVID-19 National Emergency that receive an initial or extended Forbearance for Borrowers Affected by the COVID-19 National Emergency, are excluded from the provisions on Forbearance and Partial Claims in PIH Notice 2014-11, paragraph 8, *HUD Approved Relief Procedures*. The lender must instead evaluate the borrower for a COVID-19 National Emergency Forbearance Loss Mitigation Advance prior to the end of the forbearance period.

For Section 184A, this DLL establishes new guidance for Loss Mitigation Advances.

A COVID-19 National Emergency Forbearance Loss Mitigation Advance under the Section 184 and Section 184A programs is very similar, but not identical to, a partial claim. For example, a COVID-19 National Emergency Standalone Partial Claim is a form of claim payment under the FHA program, while the COVID-19 National Emergency Forbearance Loss Mitigation Advance is an advance on the loan guarantee under the Section 184 and Section 184A program authorities. Both options ultimately provide the same financial relief to the borrower.

In addition, borrowers qualifying for the COVID-19 National Emergency Loss Mitigation Advance are not subject to the requirements under PIH Notice 2014-11, paragraph 7, *Loss Mitigation Procedures*.

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

The lender must ensure the following eligibility requirements are met:

- The mortgage was current or less than 30 days past due as of February 1, 2020
- The borrower indicates they have the ability to resume making on-time mortgage payments.
- The property is owner-occupied.

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

The lender must ensure that:

The borrower's accumulated late fees are waived for the entire period of forbearance.

- The COVID-19 National Emergency Forbearance Loss Mitigation Advance includes only arrearages, which consists of principal, interest, taxes, and insurance. No other charges or fees are allowable.
- The COVID-19 National Emergency Loss Mitigation Advance and any prior loss mitigation advances do not exceed 30% of the Unpaid Principal Balance at the date of default that resulted in a previous Loss Mitigation Advance, if any, or if there was no previous Loss Mitigation Advance, the date of default that led to the COVID-19 National Emergency Forbearance.
- The Loss Mitigation Advance Limit remains constant for the life of the mortgage.
- The Loss Mitigation Advance Limit is established using the formula below.

$$\begin{array}{l} \text{Unpaid Principal Balance} \\ \text{at the time of the first default} \end{array} \times 30\% = \begin{array}{l} \text{Loss Mitigation} \\ \text{resulting in a Loss Mitigation} \\ \text{Advance} \end{array} \text{ Advance Limit}$$

- 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:

$$\begin{array}{l} \text{Loss Mitigation} \\ \text{Advance Limit} \end{array} - \begin{array}{l} \text{Existing HUD} \\ \text{Loss Mitigation} \\ \text{Advance Liens} \end{array} = \begin{array}{l} \text{Available} \\ \text{Loss Mitigation} \\ \text{Advance Remaining} \end{array}$$

- 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.
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**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.

The Lender must prepare, execute and record the COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note and Subordinate Mortgage/Deed of Trust in accordance with following requirements:

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

The Lender must prepare, execute and record the COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note and Subordinate Mortgage/Deed of Trust in accordance with following requirements:

- The COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note and Subordinate Mortgage/Deed of Trust must include:
 1. the full Section 184 Case Number;
 2. provisions substantially similar to the COVID-19 National Emergency Forbearance Loss Mitigation Promissory Note and Subordinate Mortgage/Deed of Trust model documents provided on www.hud.gov/codetalk; and
 3. any amendments as required by state or federal law or regulations.
- The COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note must be executed by the borrower in favor of the Secretary.
- The COVID-19 National Emergency Forbearance Loss Mitigation Advance Subordinate Mortgage/Deed of Trust must be executed by the borrower.
- The COVID-19 National Emergency Forbearance Loss Mitigation Advance Subordinate Mortgage/Deed of Trust must be submitted to the applicable county recording office, authorized Bureau of Indian Affairs (BIA) Regional Land Title and Records Office (LTRO), or Tribal LTRO for recordation within five days of the borrower's signature.
- The lender must ensure that the recordation of the COVID-19 National Emergency Forbearance Loss Mitigation Advance Subordinate Mortgage/Deed of Trust does not jeopardize the first lien status of the Section 184 loan.

(C) HUD Other Requirements

The lender must send to HUD:

The original executed COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note and the original recorded COVID-19 National Emergency Forbearance Loss Mitigation Advance Subordinate Mortgage/Deed of Trust. The 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

The Lender must prepare a COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note in accordance with following requirements:

- The COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note must include:
 1. the full Section 184A Case Number;
 2. provisions substantially similar to the model COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note found at www.hud.gov/codetalk; and
 3. any amendments as required by state or federal law or regulations.
- The COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note must be executed by the borrower in favor of the Secretary.

The lender must send to HUD:

- The original executed COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note.

The 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.
 - A copy of the executed COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note.
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Reconciliation of COVID-19 National Emergency Forbearance Loss Mitigation Advances

If the Lender miscalculates the COVID-19 National Emergency Forbearance Loss Mitigation Advance amount resulting in an overpayment to the lender, the lender must remit the overpaid amount immediately to HUD using www.pay.gov. The lender must indicate the repayment purpose in the comments. Additionally, the lender must send an email to the Section184Claims@HUD.gov notifying HUD of the payment, including the amount, borrower's last name, and Section 184/184A Case Number.

In the event the lender claimed less than the actual COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note amount, the lender must absorb the cost of the miscalculation. The 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.

Delivery of COVID-19 National Emergency Forbearance Loss Mitigation Advance Documents to HUD

The Lender must deliver to HUD:

- the original COVID-19 National Emergency Forbearance Loss Mitigation Advance Promissory Note, no later than 60 Days from the execution date;
- the recorded COVID-19 National Emergency Forbearance Loss Mitigation Advance Subordinate Mortgage, no later than six months from the execution date; and
- a cover letter with the Section 184/184A case number for the COVID-19 National Emergency Forbearance Loss Mitigation Advance documents being delivered.

When HUD receives loss mitigation documents that do not fully support the amount claimed by the lender, HUD will consider the submission incomplete. The lender must timely correct the deficiencies to satisfy the six-month deadline for the lender to provide complete and accurate COVID-19 National Emergency Forbearance

Loss Mitigation Advance documents. HUD may follow up with the lender if there are any discrepancies between the lender's cover letter and the documents received. The responsibility for completing the documentation submission to HUD, in the required timeframes, remains with the lender.

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

The lender must consider all loss mitigation options for borrowers that experienced an adverse impact on their ability to make on-time mortgage payments due to the COVID-19 National Emergency and must satisfy loss mitigation criteria set forth below.

(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.

(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.

Any borrower who is granted a Forbearance of 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.

(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

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

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

This report must be submitted to HUD at 184Servicing@hud.gov on a weekly basis, beginning June 1, 2020, for all borrowers under COVID-19 National Emergency Loss Mitigation. A copy of the Section 184/184A Servicing Report may be found at www.hud.gov/codetalk.

If a borrower's circumstances change, lenders and servicers must update the borrower's classification on the monthly submission of the Section 184/184A Servicing Report.

Lenders and servicers must continue to submit the Section 184/184A Servicing Report to HUD by the 5th business day of each month for their entire portfolio.

**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

Any questions regarding this DLL may be directed to Krisa.M.Johnson@hud.gov.

Signature



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