

April 21, 2020



To the Members of the House Housing Finance Committee,

Thank you for the opportunity to provide comments on HF 4541, which freezes evictions and foreclosures during the COVID-19 state of emergency. The Minnesota Bankers Association is a trade association representing approximately 95% of Minnesota banks, from the largest to the very smallest. We thought it would be helpful to the committee to have an overview of the recent federal and state actions regarding foreclosures to provide context as you consider HF 4541:

- Section 4022 of the CARES Act provides foreclosure relief for residential borrowers with government-backed loans, such as FHA and VA loans as well as loans purchased or securitized by Fannie Mae or Freddie MAC.
  - Residential borrowers who are experiencing a financial hardship either directly or indirectly related to COVID-19, **may request forbearance from their servicer for 180 days**, regardless of delinquency status. **The forbearance period may be extended for an additional 180 days.**
  - During the forbearance period, no fees, penalties, or interest may accrue on the borrower's account beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the mortgage contract.
  
- **The CARES Act also contains a foreclosure moratorium for servicers of Federally-backed mortgage loans.** The moratorium applies to new foreclosures and foreclosures in process.
  - Except for vacant or abandoned property, **a servicer of a Federally-backed mortgage loan may not initiate** any judicial or non-judicial foreclosure process, move for a foreclosure judgment or order of sale, or execute a foreclosure-related eviction or foreclosure sale **through May 17, 2020.**
  
- Section 4023 of the CARES Act applies to **forbearance on multifamily properties (5+ units) with guaranteed or insured mortgages.** A multifamily borrower that was current on its payments as of February 1, 2020, and is experiencing a hardship due, directly or indirectly, to COVID-19 **may request a 30-day forbearance** from its servicer either verbally or in writing. **There may be up to two additional 30-day extensions. During the forbearance period, the borrower must not evict or begin the eviction** of a tenant from a dwelling unit located in or on the applicable property solely for nonpayment of rent or other fees or charges; or charge any late fees, penalties, or other charges to a tenant for late payment of rent.



- Minnesota Executive Order 20-14 suspends filing residential evictions, lease terminations, and carrying out a Writ of Recovery.
  - The Order also requests that lenders suspend foreclosures. Financial institutions are also “strongly urged” not to impose late fees or other penalties.
  - If a foreclosure occurs, the Executive Order prevents the homeowner from being evicted after the six-month redemption period. Lenders may not file post-foreclosure eviction actions or notices to vacate the premises after the redemption period has expired during the current public health emergency.
- The MBA encourages borrowers experiencing difficulty paying their mortgage payment should reach out to their lender/servicer as soon as possible.

The MBA is requesting an exemption for abandoned properties to conform with the CARES Act. We suggest the following change:

**Sec. 2. FORECLOSURE; STATE OF EMERGENCY.**

No request for notice of a mortgage foreclosure by advertisement may be recorded and no action may commence under Minnesota Statutes, chapter 580 or 581, **except for abandoned properties under Minn. Stat. 582.032**, for 90 days after the declaration of a public health emergency if the residence mortgaged is located in the jurisdiction where the public health emergency has been called, except for an action necessary to protect holders of bonds issued under Minnesota Statutes, chapter 462A. Nothing in this section alters the mortgage payments owed, any other obligations under the mortgage, or the pledge made by the state to holders of bonds issued under chapter 462A. For the purposes of this section, "public health emergency" has the meaning given in section 1, paragraph (d). This section applies to actions taken the day following final enactment.

**EFFECTIVE DATE.**

This section is effective the day following final enactment.

I hope this information is helpful to the Committee. Please contact us if there is additional information we can provide.

Sincerely,  
Teresa Rice  
General Counsel

