

COVID Relief Updates: Mortgages, Debt Collection, and Student Lending

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Since the beginning of the year and the change in Presidential administrations, a number of relief measures granted in response to the COVID-19 pandemic have been extended. Below are updates regarding relief measures in place pertaining to **mortgage foreclosures and evictions**, **debt collection**, and **student lending**.

National Foreclosure and Eviction Moratoria Extended

In late December 2020, prior to the change in Presidential administrations, the Department of Housing and Urban Development (HUD) announced an extension from December 31, 2020, to February 28, 2021, of its foreclosure and eviction moratoria for single-family FHA insured mortgages and REO properties due to the COVID-19 pandemic. This was the fourth extension of the FHA moratorium.

On January 19, 2021, one day before the change in Presidential administrations, the Federal Housing Financing Agency (FHFA), which regulates Governmental Sponsored Entities (GSEs) The Federal National Mortgage Association (Fannie-Mae) and The Federal Home Loan Mortgage Corporation (Freddie Mac), announced that it was extending the GSEs' moratoria on single-family home foreclosures and real estate-owned evictions to February 28, 2021. This was the fifth extension of the GSEs' foreclosure and eviction moratoria.

On Inauguration Day – January 20, 2021 – the newly installed Director of the Centers for Disease Prevention and Control (CDC) announced an extension of the CDC's Order temporarily halting residential evictions "until at least March 31, 2021." This latest extension of the CDC's eviction moratorium follows a prior extension that would have expired on January 31, 2021, and which was issued by Congress pursuant to the Consolidated Appropriations Act, 2021 and signed by former President Trump on December 27, 2020.

Many observers expect the aforementioned moratoria to be extended again by the FHA, FHFA, and CDC respectively absent a dramatic improvement in the nationwide COVID-19 outbreak. The Biden Administration has proposed further moratoria extensions as part of the administration's \$1.9 trillion stimulus plan referred to as the "America Rescue Plan," which was unveiled on January 14, 2021. As part of the Plan, the Biden Administration is requesting that the Democratically controlled Congress extend national foreclosure and eviction moratoriums through September 30, 2021. It is expected that Congress will take up the Plan, along with the proposed moratoria extensions, during the first 100 days of the Biden Administration.

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Debt Collection Relief Varies By State

In the debt collection world, there are no broad-sweeping federal holds in place, and only state-specific relief has been enacted. The range of relief afforded by state orders includes temporary prohibitions on creditors taking specific debt collection actions, like filing (or proceeding with) a collection lawsuit, garnishing wages, seizing property, and repossessing a vehicle, or freezing a bank account. Reference [this previous alert](#) for our recent coverage of state debt collection moratoriums.

As a result of these state enforcement orders, there has been a flurry of consumer-related FDCPA actions filed. This increase includes both individual and class actions. This has also resulted in a wave of complaints to the Consumer Financial Protection Bureau (CFPB) resulting in enforcement actions. Some recent enforcement actions are as follows:

On December 8, 2020, the CFPB issued a consent order against RAB Performance Recoveries, LLC (RAB). The consent order stemmed from the CFPB's finding that during the period that RAB was obtaining judgments against consumers, RAB was not licensed in Rhode Island, New Jersey, and Connecticut, as required to collect debts. The CFPB found that in violation of the Fair Debt Collection Practices Act (FDCPA), RAB had misrepresented that it had a legally enforceable right to recover payments. The consent order prohibits RAB from collecting on the judgments, collecting on payment agreements from consumers, requires RAB to take all necessary steps to vacate those judgments and suspend collection of those judgments, and to notify consumers with payment agreements that they have been satisfied. The consent order also requires RAB to pay a \$204,000 civil money penalty. A copy of the Consent Order may be found [here](#).

The CFPB, in conjunction with the New York Attorney General, filed a Complaint in the Western District of New York stemming from alleged illegal methods to collect debts by debt-collection companies and two individual owners and members. The Complaint alleges that the defendants have "participated in a debt-collection operation that has used deceptive, harassing, and improper methods to induce consumers to make payments." The Complaint alleges that these acts constitute a violation of the FDCPA and the Consumer Financial Protection Act (CFPA) and seeks consumer redress, disgorgement of ill-gotten gains, civil money penalties, and injunctive relief against the defendants. A copy of the Complaint may be found [here](#).

We anticipate that FDCPA claims will continue to rise, with an expected spike after the expiration of the foreclosure moratoriums.

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Federal Student Loans in Forbearance through Sept. 30

At the request of President Biden, the Acting Secretary of Education will extend the pause on federal student loan payments and collections and keep the interest rate at 0%. No federal student loan payments are owed, and no student loans in default will be collected during this time period. Voluntary payments towards principal will still be accepted.

Congress initially passed this student loan relief as part of the CARES Act in March 2020. Former President Trump extended this student loan relief twice, from September 30 through December 31, 2020, and again through January 31, 2021. On its first day in office, the Biden Administration extended the student loan relief for an additional eight months through September 30, 2021. This extension provides additional time for Congress to develop a plan and for borrowers to prepare for repayment. In the meantime, about 41 million Americans will continue to benefit from the federal government's pause on student loan payments.

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