



Seeking forbearance from MassHousing for multifamily housing in accordance with the Federal CARES Act

Introduction

As a result of the current COVID-19 pandemic, the Commonwealth of Massachusetts and the nation are experiencing a health and economic crisis on an unprecedented scale. Job losses continue to mount as businesses experience reduced demand or are forced to remain closed in large-scale efforts to stop the spread of the virus. While these measures are deemed necessary by health advisors, the economic ramifications will continue to increase as many citizens find themselves out of work or working reduced hours, and unable to pay rent.

With respect to the MassHousing multifamily portfolio, adverse effects of the crisis may include the temporary inability of borrowers to make required mortgage payments and delays in construction due to construction stop orders, among other issues.

In response to – and in compliance with – the Federal CARES Act, signed by the President on March 27, 2020, MassHousing will be taking and reviewing applications for forbearance on multifamily loans in accordance with the following stipulations.

Process for requesting relief

Applications on behalf of Borrowers can be submitted by General Partners, Managing Members or authorized Property Managers acting on behalf of the Borrower. Requests should be submitted in writing to the MassHousing Asset Manager or Relationship Manager for the particular property or portfolio. Only properties or portfolios that were not in default as of February 1, 2020 will be considered for relief under these procedures.

Required documentation:

Affirmation of Hardship Due to COVID-19

- A written request with appropriate project identification that affirmatively declares the project is experiencing financial hardship as a result of the COVID-19 pandemic and how it is impacting the project
- An acknowledgement that the Borrower (i) will comply with all tenant protection obligations as required under the CARES Act, as well as any other applicable state or local tenant protection requirement, and (ii) has read and understands [HUD's Mortgagee Letter 2020-09](#).
- A certification in writing that the submission, including all information submitted to support the request for relief, is true, accurate, and complete.

Supporting Documentation

- Current rent receivables
- Accounts payable aging
- YTD operating statement with variances to budget
- Copies of reports submitted to local/state/federal health agencies
- A 2019 Project Audit, if not already submitted to MassHousing
- List of any and all reserves held outside of MassHousing, including required use of those funds
- Information on additional sources of financial relief expected and/or funded

Suspension of equity distributions, fees to Limited Partners, General Partners, Members or Managers

Borrowers obtaining relief under the CARES Act agree to suspend equity distributions until such time as all monetary deferrals have been paid. Payments of fees to general or limited partners, or managers or members, must be suspended during forbearance period. In addition, no payments shall be made on any related party loans, such as general or limited partner or manager or member loans.

Conformance with HUD guidance and the CARES Act

MassHousing will follow the same procedures outlined by [The U.S. Department of Housing and Urban Development's Mortgagee Letter 2020-09 dated April 10, 2020.](#)

Applicants seeking forbearance should take particular note of the following requirements in [The HUD Mortgagee Letter 2020-09:](#)

Length of forbearance and extensions:

- (1) Upon receipt of a request for forbearance from a multifamily borrower, MassHousing shall document the financial hardship and provide the forbearance for up to 30 days.
- (2) Forbearance may be extended for up to 2 additional 30-day periods upon the request of the borrower provided that the borrower's request for an extension is made during the covered period, and at least 15 days prior to the end of the forbearance period in effect at that time.
- (3) A multifamily borrower shall have the option to discontinue the forbearance at any time.

Renter Protections During Forbearance

A multifamily borrower that receives a forbearance, pursuant to Section 4023 of the CARES Act may not, for the duration of the forbearance:

- (1) evict or initiate 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
- (2) charge any late fees, penalties, or other charges to a tenant described in (1) for late payment of rent.

(3) require a tenant to vacate a dwelling unit located in or on the applicable property before the date that is 30 days after the date on which the borrower provides the tenant with a notice to vacate and,

(4) issue a notice to vacate under paragraph (1) until after the expiration of the forbearance.

Irrespective of any forbearance, Section 4024 of the CARES Act states that during the 120-day period beginning on the date of enactment of the CARES Act, the lessor of a covered dwelling may not:

(1) make, or cause to be made, any filing with the court of jurisdiction to initiate a legal action to recover possession of the covered dwelling from the tenant for nonpayment of rent or other fees or charges; or

(2) charge fees, penalties, or other charges to the tenant related to nonpayment of rent.

The scope of relief and related requirements will also be subject to requirements of other affected transaction parties, including, as applicable, HUD, other lenders, investors and participants.

Repayment of forborne amounts

The Borrower will be expected to repay the total forborne amount in a manner acceptable to MassHousing.

For further information

Owners, partners or managers seeking forbearance should contact the appropriate MassHousing asset manager or relationship manager, and should also read [The U.S. Department of Housing and Urban Development's Mortgagee Letter 2020-09 dated April 10, 2020](#) prior to requesting forbearance from MassHousing.