

BURR ALERT

Fannie Mae and Freddie Mac Payment Deferral Programs

By Mallory Woodford Reehl, Erin Hewitt and Rocky Horde

April 2020

On March 23, in response to the COVID-19 Pandemic and its effects in the United States, the [Federal Housing Finance Agency](#) announced that Fannie Mae and Freddie Mac will offer mortgage forbearance to multifamily borrowers. Fannie Mae and Freddie Mac have since implemented programs allowing forbearance on mortgage payments to certain borrowers for up to three months. These programs have the potential to provide relief to multifamily borrowers whose tenants may be unable to pay rent due to the economic climate caused by the coronavirus outbreak.

If borrowers choose to seek forbearance, then each borrower should be prepared to demonstrate their particular economic hardship incurred as a result of the pandemic. Accordingly, borrowers may provide information such as the impacts on rental income and a report of tenants who have missed rent payments. If requesting forbearance prior to knowing the impact on rent payments, borrowers may be able to make projections of missed tenant rent payments. Highlights of Fannie Mae and Freddie Mac forbearance programs are outlined below.

The Fannie Mae Forbearance Program: (View link [here](#))

- Allows borrowers to enter into a non-negotiable forbearance agreement that permits deferral of up to 3 months of mortgage payments without late charges if the mortgage was current on February 1, 2020.
- The forbearance agreement has certain requirements, including the following:
 - Repayment of deferred payments is spread over the 12-month period following forbearance, or upon receipt of the proceeds of business interruption/income insurance or other assistance or relief program occurring before the end of the 12-month period – to the extent permitted by the applicable relief program;
 - Borrower must suspend evictions for nonpayment of rent for the longer of the 120-day period after the enactment of the CARES Act, the months of actual payment forbearance, or as otherwise required by applicable law;
 - After paying operating expenses, borrower must pay all excess cash flow to lender.

The Freddie Mac Forbearance Program:

- Allows multifamily borrowers to defer mortgage payments, including payments on principal, interest, escrow and reserve, for up to 90 days pursuant to a non-negotiable forbearance agreement.
- Repayment of deferred payments to occur during the 12 months following the forbearance period.

- Borrowers must suspend tenant evictions during the forbearance period.
- Borrowers more than 30 days delinquent or with other defaults in the past 90-days are likely ineligible, and will be reviewed on a case-by-case basis.

As the COVID-19 Pandemic continues to unfold, we will be monitoring updates and provide further guidance.

For additional information:

If you have any questions regarding these forbearance programs, please contact any of the following attorneys or the Burr attorney with whom you regularly work.

[Mallory Woodford Reehl](#) at mreehl@burr.com or (205) 458 6821

[Erin Hewitt](#) at ehewitt@burr.com or (404) 685 4246

[Rocky Horde](#) at rhorde@burr.com or (404) 685 4288

Burr & Forman publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information purposes only and may not be quoted or referred to in any other publication or proceeding without the prior written consent of the Firm, to be given or withheld at our discretion. The mailing of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship. The views set forth herein are the personal views of the authors and do not necessarily reflect those of the Firm. If legal advice is sought, no representation is made about the quality of the legal services to be performed or the expertise of the lawyers performing such service.