



SPECIAL PROTECTIONS FROM FORECLOSURE AND DEFAULT

A New Law May Protect Your Interests

Oregon's Governor Brown signed a new law on June 30, 2020 that may protect you from foreclosure or default because of COVID-19..

Am I Protected by the New Law?

The protections apply to all commercial and residential borrowers whose loans are secured by real property located in Oregon or by personal property used as a residence in Oregon.

What is the Emergency Period During Which the New Protections Apply?

The law applies retroactively to an "emergency period" beginning on **March 8, 2020** and ending on **September 30, 2020**. The Governor may extend the period by executive order.

What Kind of Notice is my Lender Required to Give Me?

If my lender is authorized to do business in Oregon, my lender must mail me this notice by August 29, 2020.

What Are the New Law's Limits on Default?

During the emergency period, my lender may not treat as a default my failure to make payments if at any time during the emergency period I notify my lender, in the form described below, of my inability to make a loan payment or to pay any other amount owed under my loan agreement, and must, absent other mutual agreement:

- **Defer** collecting my loan payments.
- **Permit** me to pay my deferred loan payments at my loan's scheduled maturity date. (My lender may adjust escrows already required in my loan documents in accordance with the Real Estate Settlement Procedures Act, taking into account such deferrals.).
- **Not charge** me any fees, charges, penalties, attorneys' fees, or other amounts that my lender would otherwise be able to charge upon my default.
- **Not charge** a default rate of interest that my lender would otherwise be able to charge on my default .
- **Not treat** my failure to make payments of any amounts due under my loan as disqualifying me from foreclosure avoidance measures (e.g., defer or forbear from collecting one or more of my payments, modify my payment or other loan terms, accepting a deed in lieu of foreclosure, conducting a short sale, and/or providing me with other assistance allowing me to avoid foreclosure).
- **Require or** charge for an inspection, appraisal or broker's price opinion that is not otherwise allowed if there is no default.
- **Not initiate** cash management or impose a lockbox to the extent attributable to non-payments protected by the new law (unless already in place before the effective date).
- **Not take control** of operating revenue from real property securing my loan (unless control was established before the effective date).
- **Not declare a default** because I fail to meet financial covenants because I have inadequate operating revenues caused by the COVID-19 pandemic.
- **Not foreclose** judicially or non-judicially (or otherwise enforce a foreclosure remedy).

What Kind of Notice Must I Give my Lender to Gain Protections Under the New Law?

I need only give one notification to my lender.

Loans Secured by a 1-to-4 Family Dwelling. I only need to tell my lender that my failure to make loan payments is a result of loss of income related to the COVID-19 pandemic.

Loan Secured by Multi-Family Dwellings (5 + Units) and Commercial Properties. In addition to the above, my notice must:

- Include financial statements or other evidence that demonstrates a loss of income related to the COVID-19 pandemic, and
- Disclose any funds that I received from the United States Small Business Administration under the Paycheck Protection Program or other state or federal relief programs.

What Happens if my Foreclosure Was Initiated Before the Effective Date?

The period of time between initiating a foreclosure and the time when a foreclosure may occur is tolled during the emergency period.

After the emergency period expires:

- A trustee's sale may continue if my lender sends amended notice of sale by registered or certified mail to certain persons.
- A lender may obtain a forfeiture remedy if my lender gives written amended notice of default to certain persons.
- For other types of foreclosure proceedings, my foreclosure may continue if my lender complies with legal requirements.

Can an Oregon Court Issue a Foreclosure Judgment During the Emergency Period?

No

A court must dismiss without prejudice any foreclosure action started during the emergency period.

Can a Trustee's Sale Occur During the Emergency Period?

No.

A trustee's sale during the emergency period is void.

Can I Sue my Lender if my Lender Violates the New Law?

Yes.

I have the right to sue my lender to recover actual damages and attorneys' fees for violations of this new law.

Does the New Law Apply to Foreclosure Judgments or Notices of Trustee's Sale That Were Issued Before the Emergency Period?

No

Does the New Law Apply to Foreclosure Judgments or Notices of Trustee's Sale in Connection With Tax Foreclosures?

No

Does the New Law Apply to Foreclosure Judgments or Notices of Trustee's Sale Where a Borrower Has Recorded a Notice of Intent to Abandon the Property?

No.

Do I Still Have to Make All Loan Payments to my Lender After the Emergency Period?

Yes