



## 2021 Foreclosure Prevention and Mortgage Lending Priorities: HUD, FHFA, USDA November 2020

Strong communities and markets need responsible lending rules that give borrowers, especially low-income and Black and Latinx borrowers, a fair shake at the dream of owning and keeping a home. FHFA and FHA should take decisive action to combat pervasive harm from the pandemic, expand opportunity in communities of color, and grow equity in the mortgage markets.

### DAY ONE PRIORITIES

- **Convene a cross-Administration working group on sustainable homeownership in communities of color.**
- **The government housing agencies should extend their foreclosure moratoria by six months.**
- **FHA, USDA and VA should extend the availability of forbearance beyond 2020 for homeowners facing COVID-19 hardships on government-backed mortgages, as current forbearance deadlines fail to account for the dramatic rise in COVID cases. ([HEROES Act](#)).**
- **FHFA and FHA and other agencies should require mortgage companies to make forbearance automatic for homeowners who are 60 days late on their mortgages during the COVID-19 emergency in order to lower the risk of foreclosure from a prolonged, unaddressed delinquency. ([HEROES Act](#)).**
- **FHA and FHFA should continue their policies of purchasing and insuring recently-originated loans that go into forbearance during the COVID-19 emergency, but end their imposition of fees and special indemnification requirements for these loans. ([Coalition letter](#)).**

### ADDITIONAL PRIORITIES BY TOPIC

1. **FHFA and FHA should prevent a COVID-19 tsunami of foreclosures, likely centered in Black and Latinx communities, and promote an inclusive recovery.**
  - A. Include scheduled tax and insurance payments in Fannie Mae and Freddie Mac payment deferrals (consistent with current FHA policy) and mandate 60-month repayment plans for escrow shortages.

- B. Require collection and public reporting of loan-level COVID-related mortgage lending and performance data for government-backed loans ([H.R. 6794](#)) and for the broader housing market ([H.R. 6835](#)), including demographic and property location information. As one initial step, the CFPB and FHFA must ensure transparency and accountability in their Borrower Protection Program by making their data publicly available.
- C. Require servicers to send a notice to homeowners within 45 days of delinquency that describes their COVID forbearance and repayment options. A significant number of delinquent borrowers have not accessed assistance, and borrowers must first know about options in order to request them. The mandate should include in-language notices for limited English proficient borrowers, beginning with Spanish.
- D. Halt negative credit reporting during the pandemic. ([HEROES Act](#)).
- E. Require borrower protections in mortgage servicing transfers, including mandatory and publicly available standard data and transfer plans and a dispute process that prevents borrowers from facing default because the new servicer did not get accurate information from the previous servicer. ([NCLC press release](#)).

**2. [FHA should update and strengthen foreclosure prevention for FHA mortgages, currently the central homeownership program for underserved communities.](#)**

- A. Ensure that divorced and separated homeowners, including those who are survivors of domestic violence, have clear access to foreclosure prevention options. ([Coalition comments](#)).
- B. Establish stronger foreclosure protections for reverse mortgage borrowers and provide reverse mortgage borrowers with COVID protections similar to those for "forward" FHA mortgages by deferring any property charges that went unpaid during a COVID-related hardship until the loan is due and payable. ([Coalition letter](#)). HUD also should engage in discussions on the transition away from LIBOR for reverse mortgages. LIBOR is the index for interest rates on more than 2.8 million adjustable rate and reverse mortgages. FHA should set a deadline for the transition and provide strong guidance to counterparties to avoid market uncertainty, consumer harm, and the potential for billions of dollars in related costs. ([Coalition comments to CFPB](#)).
- C. Ensure that FHA conducts distressed asset sales only when demonstrably necessary to protect the insurance fund. The rules should require that all borrowers with loans included in sales be fully evaluated for FHA foreclosure prevention measures, that FHA conduct sales in a manner that promotes single-family homeownership and healthy neighborhoods, and that HUD include a "first look" for Neighborhood Stabilization Program grantees for real-estate owned (REO) sales. ([Coalition comments](#)).
- D. Restore language to the FHA form note, as proposed during the Obama Administration, to ensure that homeowners can avoid unnecessary foreclosures and obtain required hardship assistance. ([Coalition comments](#)).

E. Strengthen oversight of FHA foreclosure prevention. (S. 2279/H.R. 3958).

**3. FHFA and HUD should strengthen racial and economic justice in the mortgage market, including through language access, broader market access, and better data collection and reporting.**

A. Require mortgage lenders and servicers to provide language access for borrowers with limited English proficiency, including through collection and transfer of language preference ([H.R. 4783](#)), provision of translated documents, and oral interpretation. ([Coalition comments to FHFA](#) and [Supplemental comments to FHFA](#)).

B. Provide that government-backed loans cannot be made on properties with liens secured by Property Assessed Clean Energy (PACE) loans until the CFPB adopts robust consumer protection rules that include ability-to-repay requirements for these loans. ([NCLC/NHLP comments](#) and [Coalition comments to CFPB](#)).

C. Ensure that any green home financing programs align with consumer protection and remain keyed to the borrower's ability to repay and the fair market value of the property. Additional measures to promote energy efficiency in the residential market can include expansion of weatherization, low-rate loans and rebates, subsidies from utilities, and updating of appliance efficiency standards.

D. Ensure that the Government-Sponsored Enterprises retain their public purpose of providing broad and equitable mortgage market access.

E. Establish a *Homeowner Affordability Fund* to promote homeownership for low-income and low-wealth borrowers and disinvested communities through new federal programs and grants to state and local governments for designated purposes, including small dollar mortgage loans, downpayment assistance, interest-rate buydowns, and home repairs for preserving homeownership.

F. Reverse HUD's final rule on disparate impact standards, restore the Obama Administration's Affirmatively Furthering Fair Housing rule, and vigorously enforce fair lending and fair housing laws, including in new uses of data and algorithms.

**4. USDA should establish affordable options for homeowners facing hardship.**

A. Create affordable loan modification and payment deferral options for USDA Direct Loan borrowers, including those in foreclosure, in line with all other sectors of the mortgage market. ([NCLC issue brief](#)).

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