Massachusetts Update on Mortgage Guidance – 3.25.20

Massachusetts Division of Banks Guidance

A new message was released yesterday by the Massachusetts Division of Banks ("Division") to all government and financial sector business leaders conducting business in the Commonwealth. The additional guidance relates to the mortgage disruption and financial hardship related to the COVID-19 pandemic. It is important to note that the industry guidance is targeted to all regulated financial institutions because of the potential for the unprecedented pandemic outbreak of Coronavirus Disease (COVID-19) to adversely affect Massachusetts mortgage loan borrowers. The new guidance can be read HERE.

In issuing the list of actions, the Division also reiterated that it recognizes and appreciates that some financial institutions, mortgage lenders, and servicers have already announced the initiation of proactive steps to assist borrowers in Massachusetts at risk of losing their homes, including postponing foreclosures, forbearing mortgage payments, and waiving associated fees.

Key actions set forth in the guidance include:

- Postponing foreclosures for 60 days;
- Forbearing mortgage payments for 60 or more days from their due dates;
- Waiving late payment fees and any online payment fees for a period of 60 days;
- Refraining from reporting late payments to credit rating agencies for 60 days;
- Offering borrowers an additional 60-day grace period to complete trial loan modifications, and ensuring that late payments during the COVID-19 pandemic do not affect their ability to obtain permanent loan modifications;
- Ensuring that borrowers do not experience a disruption of service if the mortgage servicer closes its office, including making available other avenues for borrowers to continue to manage their accounts and to make inquiries; and
- Proactively reaching out to borrowers to explain the above-listed assistance being offered.

For state-chartered credit unions and others, the Division also emphasized that reasonable and prudent efforts, consistent with safe and sound banking practices as well as in the public interest, will not be subject to examiner criticism during these unusual and extreme circumstances surrounding the outbreak. This flexibility has also been reiterated recently by the National Credit Union Administration.

The Association continues to remind member credit unions that the need for thorough documentation of all decisions taken by a credit union to offer mitigation and forbearance efforts to help members during this public health crisis cannot be overstated. These steps include documentation of the process used to deliberate, member requests/need, policy and/or procedure changes made, second look opportunities adopted, staff training directives to implement the flexibility, as well as direction provided by boards of directors.

Finally, this new message has been released as guidance, not a mandate, and is also consistent with federal bank regulator guidance. The consistent regulatory message at every level is that all entities need to do their part consistent with safety and soundness to help borrowers as much as possible. The Association has observed that many members are well underway to achieve these goals and that the new guidance is a reminder and/or an extension of current efforts. For members still developing plans, or who have questions about this most recent message, then please do not hesitate to contact the Association for assistance at advocacyma@ccua.org.