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CARES ACT: FORECLOSURES AND EVICTIONS

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On March 27, 2020, Congress enacted the Coronavirus Aid, Relief and Economic Security Act of 2020 ("CARES Act"), which provides for financial relief due to the COVID-19 pandemic. Section 4022 of the Cares Act provides a moratorium on residential foreclosures for borrowers with federally backed 1-4 family mortgage loans and addresses the right of a homeowner to request a forbearance from payment on these loans. The requirements only apply to federally backed mortgages which are loans insured or guaranteed by FHA, VA, USDA or loans that are owned or securitized by Fannie Mae or Freddie Mac. The moratorium does not apply to vacant or abandoned property or private bank loans. Under the Cares Act, no mortgage servicer of any federally backed 1-4 family mortgage loan is permitted to do the following which was originally scheduled to end on May 17, 2020 but which has now been extended until June 30, 2020:

- Initiate any judicial or non-judicial foreclosure process;
- File a motion for foreclosure judgment or order of sale; or
- Execute a foreclosure-related eviction or foreclosure sale.

Section 4022 of the Cares Act also allows a borrower on a federally backed 1-4 family mortgage loan to request a forbearance from payment up to 180 days with the right to request an additional 180-day extension. Section 4023 of the Cares Act allows a borrower on certain federally backed multi-family mortgages to request forbearance for up to 30 days with two 30-day extensions. During the term of forbearance, a tenant cannot be evicted or charged late fees. Section 4024 of the Cares Act establishes a temporary moratorium on eviction filings for certain single and multi-family housing. Until June 30, 2020 a lessor cannot initiate an eviction for nonpayment of rent. After the moratorium period, the landlord may not evict a tenant unless a 30-day notice is provided to the tenant.

Governor DeSantis also issued Executive Orders 20-94 and 20-121, consistent with the CARES Act, extending the foreclosure moratorium to all foreclosures and tolling residential evictions until June 2, 2020. The Governor's orders did not waive the obligation to make scheduled payments.

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