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What to Do BEFORE the Foreclosure and Eviction Moratorium Ends

Don’t wait for the federal bans to expire before you find a solution.

In mid-February, the U.S. Department of Housing and Urban Development (HUD) announced that they would extend the foreclosure moratorium to June 30, 2021. HUD also extended the period where homeowners can request mortgage forbearance to June 30 as well.

Extending the foreclosure and eviction ban is just one part of the Biden administration’s plan to rescue homeowners and renters. President Biden has asked Congress to pass a new COVID-19 relief bill that would provide an additional $35 billion in relief for renters and Americans facing homelessness.

That adds to the $25 billion in rent relief that Congress approved in December as part of the second stimulus. The rental relief funds would effectively help renters cover payments that may have been missed since March 2020. Missed payments have not been forgiven, meaning that many renters owe significant back rent that eventually needs to get paid. Otherwise, landlords may face foreclosure due to nonpayment of the mortgages for their rental properties.

“It’s a tough situation for everyone,” says Howard Dvorkin, chairman of Debt.com. “A large percentage of renters live in single-family homes, meaning the landlord only has one tenant in the property. If that tenant can’t pay rent, it often means the landlord may be behind as well. It’s putting everyone behind, and no one can say for certain what will happen when these protections eventually run out.”

With that in mind, we asked twelve housing experts what renters and homeowners can do to get ahead.

Advice for renters who owe back rent and could be facing eviction

The eviction moratorium that's been in place since March 2020 prevents renters in certain types of homes from being evicted due to nonpayment. This only applies to people renting Fannie Mae and Freddie Mac properties or an FHA-insured home. For renters that have been protected under the eviction moratorium, our experts offered these recommendations.

Landlords and renters are in it together

Roughly four out of every ten renters in the U.S. rent a single-family home. This effectively means that their landlord only receives rental income from a single source. If a family hasn't been able to pay, their landlord may be struggling to keep up with their payments, too.

Given that the average rent is $1,500 per month, that's tens of thousands of dollars in back rent potentially. If a renter hasn't paid for ten months, that's $15,000 that would need to be made up.

EXPERT: Bill Gassett, RE/MAX Realtor, [Maximum Exposure Real Estate]

"Both landlords and tenants are in a very difficult situation. While tenants have not been able to pay, landlords—of course—might not be taking in expected rent. It is an awful situation for all who are involved. There is no easy solution for landlords who are not in a financial position to not get their rent month after month."

This means that it's in both parties' best interest to work together.

Keep lines of communication open to understand your options

EXPERT: David Howard, Executive Director, National Rental Home Council
“Start by talking to your landlord. Eviction is always a last resort for a property owner, especially in the single-family rental home market where the cost of an unoccupied property cannot be spread across multiple units like, for example, in an apartment building.”

“The National Rental Home Council (NHRC) has encouraged member companies to reach out to residents who might be experiencing economic hardship to find out how they can be of assistance,” Howard explains. “Property owners have offered a range of options for struggling residents.”

Here are a few options that the NHRC recommended landlords should extend to distressed renters:

- Payment programs
- Accessing funds held in security deposits
- Waiving fees
- Terminating leases upon request

Find local resources through 211

EXPERT: Aaron Norris, VP Market Insights, Property Radar

“One of the big opportunities right now are local resources, and landlords and renters aren’t likely paying attention. 211 is like 411 but for nonprofit and government programs.”

Norris advises renters to be proactive to call 211 themselves to see if rental relief grants may be available.

“Many landlords don’t live in the county where they hold assets,” Norris says, “so it’s incredibly important to look at the county and city level to see if resources exist for the landlord or the tenant.”

Tenants can also use 211 to find resources outside of housing, including:
- Utility bill assistance
- Food stamps for households that are food insecure
- Work resources for those facing ongoing unemployment

If you can afford to pay anything, pay it

EXPERT: Dr. Francesca Ortegren, Data Scientist, [Clever Real Estate]

"If they haven't already, renters should talk with their landlords about a repayment plan for rent they've missed over the past year. Many landlords are likely to be open to the prospect of an official plan. It increases the chances they'll see that rent in the future, as many renters can't cover months of rent at once—especially not during a recession."

If you've missed any payments due to unemployment or underemployment, total up what you owe in back rent. Then review your budget to see what you can reasonably afford to pay. Even if it's just a small percentage of what you owe, it will show your landlord that you're serious about working with them to find a solution.

Renters should be working now to make some kind of arrangement with their landlord that's amicable for both parties. – Bill Gassett

Don't dodge your landlord

Even if you're still in a situation where you can't afford to pay anything on the back rent you owe or make your current payments, don't keep your landlord in the dark.

EXPERT: Dustin Heiner, Founder, [Master Passive Income]

"Lack of communication is the quickest way to be evicted when times are tough. If you are a renter, you should be in direct communication with the landlord or property manager about your situation. Inform them of your situation so they are not left in the dark with a tenant who is not paying rent."

Know your rights

While many landlords are willing and ready to work with tenants to get through this tough situation, there are going to be those who aren't. If you're in a situation where your landlord or property manager is uncooperative, make sure you're fully informed of your rights.

EXPERT: Ina Li, Chief of Staff to CTO, REX Real Estate

"It's crucial for renters to know their rights in the process of negotiation, especially when the landlords refuse to cooperate. State-specific information on COVID-related tenant protections can be found on Nolo.com, and renters should consider hiring an attorney if the situation escalates."

Li also directs renters to know what federal resources and protections are available.

"Federal resources can be found at the Department of Housing and Urban Development and the Consumer Financial Protection Bureau," Li says. She also encourages renters to get familiar with their state's eviction protection policies. "Specific state and local moratorium details can be found at the COVID-19 Housing Policy Scorecard by Eviction Lab."

Advice from homeowners worried about foreclosure

The most recent Household Pulse Survey by the U.S. Census revealed that over 10 million homeowners are not current on their mortgage payments. What's more, five million Americans say they have no confidence that they will be able to make next month's mortgage payment.

Currently, the foreclosure moratorium for FHA-insured homes is set to expire on June 30, 2021. That is also the deadline for homeowners to request their initial 180 days of forbearance.

For homeowners who are behind or concerned they may fall behind, our experts have this advice:

Forbearance is still an option and can buy you time

President Biden's executive order does not just extend the moratorium on foreclosures. It also extends the time that homeowners have to request forbearance from their lender.

Under the CARES Act, homeowners can request up to 180-days of forbearance, which reduces or completely pauses their monthly payments. Homeowners could request an extension to receive forbearance for an additional 180 days. Homeowners now have until June 30, 2021, to request forbearance.

Borrowers can request forbearance, affording them up to 180 days in 2021 to catch up financially. – Dr. Francesca Ortegren

Ina Li agrees and points out that lenders are not in the business of working against homeowners because foreclosure isn't good for them either. So, even homeowners that don't qualify for forbearance under the CARES Act should still contact their lender if they're in financial distress.

"Forbearance rights are typically included with every mortgage," she explains. "Homeowners in distressed situations should understand that most lenders prefer to work out payment plans or deferrals than entering costly and lengthy foreclosure processes. This is especially true for local community banks that own their mortgages and have more flexibility."

Know your loan, know your lender

Federal relief protections, such as forbearance, only apply to specific types of mortgage products. This means it's important to know what type of mortgage you have. As Li explained above, smaller loan servicers who are local often have more flexibility to help a homeowner than national servicers. So, you also need to know your servicer.

EXPERT: Colin Robertson, Founder, TheTruthAboutMortgage.com

First, take note of the type of mortgage you have, whether it's an FHA loan, VA loan, or conforming loan backed by Fannie or Freddie. Then understand how loan servicers are approaching homeowners post-forbearance. None of these agencies expect borrowers to pay the missed amount in full, but they may still ask you if you can. If not, you'll be offered a repayment plan if affordable, or payment deferral to the end of the loan term if you can't manage to pay any extra.

You can refer to your loan agreement or your monthly mortgage statements to find all the information you need about your loan and lender. If you still aren't sure or have questions about your loan, contact the customer service department for your loan servicer.

Understand your options post-forbearance.

EXPERT: Nadia Evangelou, Research Economist [National Association of Realtors]

"A reinstatement may also work for owners who had a temporary hardship but now they have the money to pay fully the amount that they owe. A repayment plan usually works for owners who missed a few payments, but they can afford to pay more than their monthly mortgage payment for the next months to catch up. A modification works for owners who want to keep their home, but they cannot afford the payment, by reducing their monthly mortgage payment to an affordable amount."

Be patient and document everything

Adam Sherwin, a real estate litigation attorney encourages homeowners to be proactive. Contact your lender or loan servicer and ask them about the options outlined above. Make sure to explain your circumstances.

EXPERT: Adam Sherwin, Real Estate Litigation Attorney, [Sherwin Law Firm]

"This, unfortunately, can be a lengthy and frustrating process and may require the homeowner to make multiple phone calls and letters to the servicer. Homeowners, importantly, need to keep a record of everything they send and receive from their lender and create a timeline/log of each communication and what was discussed. If the homeowner does not have any success in getting the assistance they need, this paperwork will become vital if legal action later becomes necessary."

Contact a HUD Foreclosure Avoidance Counselor

Ortegren recommends that distressed homeowners who don't qualify for forbearance under the CARES Act should contact a HUD Foreclosure Avoidance Counselor free of cost.

“Depending on their situation, homeowners may qualify for reduced mortgage payments, loan modification, or refinancing to help them stay afloat,” she explains.

“There are also options to get out from under a mortgage. Most notably are short sales and deed-in-lieu of foreclosure. A short sale consists of selling the home for less than it’s worth to sell quickly and giving the cash directly to the lender, who forgives the difference. A deed-in-lieu of foreclosure means the homeowner transfers the deed to their lender in exchange for a release from the debt owed on the home.”

While these two options are not ideal, she says they are “typically less costly to the homeowner both financially and in terms of the negative impact on their credit.”

A HUD-certified housing counselor can help you understand all the options that may be available to you. And since counselors are local, they will also know of relief funds that may be available to help homeowners.

Consumerfinance.gov offers a helpful tool that allows you to find a housing counselor in your area by zip code: https://www.consumerfinance.gov/find-a-housing-counselor/

If nothing else works, it’s time to sell

Sell. If you were under-capitalized when you purchased the home, it’s time to sell and re-evaluate if you have what it takes to own a home. – Eric Drenckhahn

Drenckhahn of NoNonsenseLandlord.com says this advice applies not only to homeowners but to property investors, too. If you are a landlord who could be facing foreclosure because your tenants can’t pay, then it may be time to get out.

“Real estate investors should have enough backup capital to weather any bad renters,” he says. “If they were undercapitalized, they need to sell.”

What government relief efforts are missing

The Biden administration has made it clear that they intend to work with members of Congress to pass a third relief package. We asked our experts what the federal government could be doing differently in this next round of stimulus when it comes to housing. Most of our experts agree that there needs to be a more comprehensive plan that addresses all the challenges that this situation has created.

Efforts need to be coordinated

The hodgepodge approach that the Fed, states and local jurisdictions have implemented while attempting to be helpful has made it difficult to navigate for everyone. – Aaron Norris

Norris says that there needs to be less politics and a more holistic approach, which would benefit everyone involved.

"A holistic solution that assists lenders, landlords, and tenants will go a long way to creating simplified messaging to get people to act," Norris explains.

Moratoriums aren't enough

Governments need to recognize that an eviction moratorium by itself just creates more stress in the system. – David Howard, National Rental Council

Howard explains that the current relief system is delaying the crisis and complicating it, instead of solving it.
"Back rent continues to accumulate for renters, while landlords are left without any means of covering the inescapable costs of ownership—taxes, assessments, repairs, mortgages, and other loans. At some point, property owners realize they simply can't afford to be in the rental housing business, and they are forced to sell, which further contributes to the housing supply problem we're all experiencing."

Howard says that the National Rental Home Council, "has been advocating for sensible rental assistance to be included in government stimulus from the beginning of the COVID crisis."

“Some states and localities are starting to offer assistance, but it’s not nearly enough,” Howard explains. “Governments need to provide direct rental assistance for renters and property owners struggling with COVID-related economic hardship.”

Get the money where it’s needed most

Some experts believe that part of the issue is that government relief funds aren’t being used in the most strategic way. People who don’t really need help are receiving stimulus checks while unemployment insurance for those in the most trouble has been cut.

EXPERT: Clayton Jarvis, Mortgage Professional America

“Put idiotic politics aside and get more financial assistance to the people who need it. No one was talking about mass evictions when people were still getting expanded UI.”

Address the underlying issues of housing affordability

As the housing affordability problem exacerbates and the wealth gap widens in the country, the governments need to address the roadblocks between aspiring homeowners and their American dreams. – Ina Li

“The current industry practice in place stifles the competitiveness of the market and fundamentally hurts consumers whether they are landlords, home sellers, or renters who aspire to buy homes,” Li explains. “The most urgent issue remains rooted in malpractice by ill-incentivized real estate agents and associations, including discrimination and charging unnecessarily high fees through informational arbitrage.”

Let business open so Americans can get back to work

“Shutting down businesses hurts families, landlords, and lenders,” says Dustin Heiner of MasterPassiveIncome.com. “It hurts everyone, and every family is worse for doing so.”

Eric Drenckhahn of NoNonsenseLandlord.com agrees, “Let businesses open up so people can work.”

Are we heading for another housing crash?

Between new coronavirus variants and slow vaccine rollouts, no one can say how long it will take for businesses to open fully. As a result, the foreclosure and eviction moratoriums may be extended even further.

“News is already emerging about an increase in foreclosures,” explains Ina Li of Rex Real Estate. “It’s important to know that moratoriums stopped foreclosures that should have happened in March 2020. The first “wave” will be foreclosures that had nothing to do with COVID beyond the fact that it postponed them.”

Still, will this wave of foreclosures lead to a housing market crash like what we saw in the Great Recession?

Most experts say no.
EXPERT: Marco Santarelli, Norada Real Estate

“There will be no housing market ‘crash’ following this moratorium or for the foreseeable future. The simple reason is that there is a lot of equity in properties all around the country, and we have a massive shortage of housing. These two dynamics are much different than what we saw back in 2007.”

Homes are in high demand

“During the great recession, home prices collapsed while housing supply reached record highs,” explains Nadia Evangelou from the National Association of Realtors. “In 2020, it was taking nearly ten months for all the current homes for sale on the market to sell. In contrast today, it would only take two and a half months to exhaust the current inventory.”

That demand means that foreclosed homes would be snapped up quickly by new buyers. That's a very different situation from 2008 to 2010 when buyers were in short supply.

A difference in equity

Before the 2008 housing crash, homeowners had borrowed heavily against equity. Many people had second mortgages and some even had third and fourth mortgages. This meant that when home values declined, many homeowners were upside down on their mortgages. They owed more than their home was worth.

The situation now is much different. While plenty of owners borrow against home equity, there are limits on that borrowing now. Home values are also showing no signs of falling.

"Homeowners have currently built up a large amount in home equity. Home prices are rising in each metro area," explains Nadia Evangelou from the National Association of Realtors, "while two in three areas had double-digit price gains compared to a year earlier in the third quarter of 2020. This means that owners' home equity is rising as well."

That's not to say that there's no risk of a crash. Some experts like Dustin Heiner of Master Passive Income feel that a market correction is likely once foreclosures start. As Colin Robertson of TheTruthAboutMortgage.com explains, "It does depend on how long the crisis lasts and if the bulk of troubled homeowners are able to regain employment."

So, for homeowners thinking about borrowing against their equity, remember to be conservative, weigh your options carefully and talk to a range of professionals before you cash in on the equity you have in your home.