



## Government of the District of Columbia Department of Insurance, Securities and Banking

**Karima Woods**  
Acting Commissioner

### **FAQs and Guidance: Residential Mortgage and Commercial Mortgage Deferment Program**

Mortgage Relief for District of Columbia borrowers is outlined in Section 202 of the District of Columbia's COVID-19 Response Supplemental Emergency Amendment Act of 2020 (the "Act"). The Act details the requirement for "mortgage lenders", as defined in the Act, to develop and implement a deferment plan for **residential** mortgage loans or **commercial** mortgage loans in the District of Columbia.

#### **1. Who are considered mortgage lenders under the Act?**

The Act defines a mortgage lender as any person who makes a mortgage loan to any person or who engages in the business of servicing mortgage loans for others; or who collects or otherwise receives mortgage loan payments directly from borrowers for distribution to any other person. *See Note.* The Act waives the exemptions outlined in Section 3 of the Mortgage Lender and Broker Act of 1996, effective September 9, 1996 (D.C. Official Code § 26-1102) for the duration of the coronavirus (COVID-19) public health emergency.

Accordingly, the definition of a mortgage lender is expanded to include financial institutions such as any bank, trust company, savings bank, savings and loan association, or credit union incorporated or chartered under the laws of the United States, any state or territory of the United States, or the District. In short, any entity (save for the exceptions listed below) that services a residential or commercial mortgage loan for real property located in the District of Columbia must comply with the Act.

**Exceptions:** A mortgage lender does not include the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association.

#### **2. What must mortgage lenders do?**

A mortgage lender that makes or holds commercial or residential mortgage loans must develop and implement a deferment program for borrowers that, at a minimum:

- Grants at least a 90-day deferment period of mortgage payments for borrowers;

- Waives any late fee, processing fee, or any other fee accrued during the pendency of the public health emergency; and
- Does not report to a credit bureau any delinquency or other derogatory information that occurs as a result of the deferral.

3. **How should borrowers apply for the mortgage deferment plan?**

The mortgage lender must create application criteria and procedures for borrowers to apply for the deferment program either online or by telephone. All mortgage lenders must send the application and procedures to the Department of Insurance, Securities and Banking using the following email address: [mortgagerelief@dc.gov](mailto:mortgagerelief@dc.gov), no later than [May 8, 2020](#).

A mortgage lender who receives an application for deferment must retain the application, whether approved or denied, for at least three years after final payment is made on the mortgage or the mortgage is sold, whichever occurs first. Additionally, if requested, a mortgage lender must make an application for deferment available to the Commissioner.

*Reporting Requirements*

Mortgage lenders must submit an initial report (“Mortgage Deferment Status Report”) to the Department at [mortgagerelief@dc.gov](mailto:mortgagerelief@dc.gov) on or before May 8, 2020, and update that report in fifteen (15) day intervals for the duration of the public health emergency, and 60 days after the emergency concludes.

The Mortgage Deferment Status Report must provide the number of mortgage deferment applications that have been approved and include the name of the borrower, the property address, the type of mortgage the borrower holds (residential or commercial), the period of deferment, and the amount of the approved deferment. The report shall also include the same information for each pending and denied application. For each application that is denied, the mortgage lender shall also provide a detailed reason for the denial.

The Mortgage Deferment Status Report will only have to be submitted to the Department for the duration of the public health emergency, and 60 days after the emergency concludes.

4. **What criteria should a mortgage lender use to review and approve the deferment applications?**

The mortgage lender must approve each application in which a borrower:

- Demonstrates evidence of a financial hardship resulting from the public health emergency, including an existing delinquency; and
- Agrees in writing to pay the deferred payments within a reasonable time agreed to by the borrower and the mortgage lender; or five years from the end of the

deferment period, or the end of the original term of the mortgage loan, whichever is earlier.

5. **Can a lump sum payment be required?**

A mortgage lender is prohibited from requiring a lump sum payment from any borrower making payments under a deferred payment program.

6. **What if my application for mortgage deferment is denied?**

A person or business whose application for deferment is denied may file a written complaint with the Commissioner for formal investigation of the complaint.

7. **What accommodations to tenants are borrowers required to make?**

A borrower receiving a mortgage deferral on a property that has a Qualified Tenant (residential or commercial) shall, within 5 (five) days of the approval, provide written notice of the deferral to all tenants including, but not limited to, posting notice of the deferral approval in a common area of the property that is visible to all tenants.

The borrower also must reduce the rent charged for the property to each qualified tenant during the period of time in which there is a mortgage deferral in place. The reduced amount must be proportional to the deferred mortgage amount paid by the borrower to the mortgage lender as a percentage of total expenses reported to the Office of Tax and Revenue in the borrower's 2019 Income and Expense report.

The borrower may require the qualified tenant to repay the difference in the amount of the rent as stated in the lease and the reduced rent, without interest or fees, within 18 (eighteen) months, or upon cessation of the tenancy, whichever occurs first.

8. **Record-Keeping and Compliance**

A mortgage lender who receives an application for deferment must retain the application, whether approved or denied, for at least three years after final payment is made on the mortgage or the mortgage is sold, whichever occurs first. Additionally, a mortgage lender must make the application for deferment available to the Commissioner upon request.

Mortgage lenders shall make a good faith effort to comply with federal mortgage servicing rules and regulations (e.g. Regulation X) while implementing the Mortgage Loan Deferment Plan.

**Note**

To the extent necessary to conform with the provisions of Section 202 of the Act, the exemptions in Section 3 of the Mortgage Lender and Broker Act of 1996, effective September 9, 1996 (D.C. Law 11-155; D.C. Official Code § 26-1102) are waived for the duration of the public health emergency.

## Definitions

For the purposes of Section 202 of the Act, the term:

1. “Commercial mortgage loan” means a loan for the acquisition of real property, or a loan secured by collateral in such real property, that is owned or used by a person or business for the purpose of generating profit, and shall include real property used for single-family housing, multifamily housing, retail, office space, and commercial space.
2. “Commissioner” means the Commissioner of the Department of Insurance, Securities, and Banking.
3. “Mortgage lender” means any person that makes a mortgage loan to any person or who engages in the business of servicing mortgage loans for others or collecting or otherwise receiving mortgage loan payments directly from borrowers for distribution to any other person. A mortgage lender does not include the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association.
4. “Qualified tenant” means a tenant of a property owned or controlled by a person or entity receiving a mortgage deferral under the Act that has notified the landlord of an inability to pay all or a portion of the rent due as a result of the public health emergency.

If you have additional questions regarding the Residential Mortgage and Commercial Mortgage Deferment Program, contact the Department’s Banking Bureau via email at [mortgagerelief@dc.gov](mailto:mortgagerelief@dc.gov). For updates on the District’s response to the coronavirus (COVID-19), visit [coronavirus.dc.gov](https://coronavirus.dc.gov).

## About DISB

The mission of the Department of Insurance, Securities, and Banking (DISB) is three-fold: (1) cultivate a regulatory environment that protects consumers and attracts and retains financial services firms to the District; (2) empower and educate residents on financial matters; and (3) provide financing for District small businesses.