

CARES ACT (H.R. 748) SUMMARY

Unless otherwise stated under “Key Provisions,” the sections became effective upon enactment on March 27, 2020.



Updated 3/30/20

SECTION	KEY PROVISIONS	EXPIRATION DATE	AGENCY AND IMPLEMENTING REGULATIONS
<p>Section 1102 – Paycheck Protection Program.</p>	<p>Creates a new SBA lending program within section 7(a) of the Small Business Act, titled the Paycheck Protection Program. Approved 7(a) lenders may automatically offer this lending program. All credit unions may apply to become an SBA 7(a) lender and must be approved before offering loans under the Paycheck Protection Program.</p> <p>This program provides greater flexibility in terms of allowable uses for funds as well as expediting the process for lenders. The SBA and Treasury have the authority to include additional lenders to the Paycheck Protection Program. This program is available to small businesses and non-profits. Non-profits are defined as those organizations described in section 501(c)(3) of the Internal Revenue Code. Both state and federally chartered credit unions cannot borrow under the program. The program allows eligible small businesses and non-profits to borrow from the SBA to pay for payroll costs, which includes salary, wages, and commission. It also includes vacation, parental, family, medical, or sick leave and insurance. Funds can also be used for mortgage payments, rent, and utilities. Loans under the paycheck program are automatically deferred for not less than 6 months and not more than 1 year. The SBA guarantee of Paycheck Program Loans is 100%, so long as there is agreement to defer the loan. All SBA fees are waived during the covered period beginning February 15, 2020 and ending June 30, 2020. Loans under this program are eligible for loan forgiveness according to section 1106, and once forgiveness is made the loans have a maximum maturity of 10 years from the forgiveness application date. For purposes of NCUA capital requirements, covered loans will receive a risk weight of zero percent.</p>	<p>Amendment to 7(a)(31)(D) sunsets January 1, 2021.</p>	<p>Small Business Administration (SBA) to issue implementing regulations for all of Title I within 15 days of enactment.</p>

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<p>Section 1102 – Paycheck Protection Program. (cont’d)</p>	<p>The Act also amends section 7(a)(31)(D) of the Small Business Act by increasing the loan amounts for express loans from \$350,000 to \$1,000,000. After expiration, the loan amount is reduced to \$350,000. Upon enactment, the interim final titled “Express Loan Programs: Affiliation Standards,” published in the Federal Register on February 10, 2020 is permanently rescinded. This interim final reinstated the personal resources test as part of the credit elsewhere standard.</p>	<p>Amendment to 7(a)(31)(D) sunsets January 1, 2021.</p>	<p>Small Business Administration (SBA) to issue implementing regulations for all of Title I within 15 days of enactment</p>
<p>Section 1106 – Loan Forgiveness.</p>	<p>This section applies to borrowers under the Paycheck Protection Program, therefore this section indirectly applies to credit unions who are authorized SBA 7(a) lenders who provide loans under the Paycheck Protection Program. The program is not automatic, borrowers must apply.</p> <p>Borrowers are eligible for loan forgiveness in an amount equal to the sum of payroll costs, mortgage interest payments, rent payments, and utilities during a “covered period.” Covered period is defined in the Act and covers the 8-week period beginning on the date of loan origination. There are limitations on the amount that may be forgiven, it cannot exceed the principal amount.</p> <p>Any amount forgiven is considered cancelled indebtedness by the lender. The SBA shall remit payment to lenders no later than 90 days for the amount forgiven plus any interest accrued through the date of payment.</p> <p>There are additional calculations for a reduction in the amount forgiven if the borrower reduces the number of employees. The section provides calculations based on the number of employees in defined periods of time. Further reductions in the amount forgiven may occur if the borrower reduces total salary or wages of any employee during the covered period that is in</p>	<p>None specified.</p>	<p>Small Business Administration (SBA) to issue guidance and implementing regulations within 30 days of enactment.</p>

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<p>Section 1106 – Loan Forgiveness. (cont’d)</p>	<p>excess of 25% of the total salary or wages of the employee during the most recent full quarter during which the employee was employed before the covered period.</p> <p>Loan forgiveness is not automatic, borrowers must submit a loan forgiveness application to the lender servicing the covered loan. The borrower must submit documentation verifying payroll, payments on covered mortgage obligations, covered lease obligations, and covered utility payments.</p> <p>The lender has 60 days to render a decision once an application is received. Amounts forgiven will not be included in the borrower’s gross income.</p>	<p>None specified.</p>	<p>Small Business Administration (SBA) to issue guidance and implementing regulations within 30 days of enactment.</p>
<p>Section 1109 – United States Treasury Program Management Authority.</p>	<p>This section applies to all federally-insured credit unions, as currently written, but may extend to all credit unions in further regulation or guidance. Authorizes the Treasury in consultation with the SBA to issue regulations and guidance for insured credit unions and other lenders, including both federal and state-chartered credit unions, that do not already participate in the Paycheck Protection Program to provide loans under this section until the COVID-19 pandemic expires.</p>	<p>None specified.</p>	<p>Small Business Administration (SBA) and Treasury may issue regulations and guidance as necessary.</p>
<p>Section 1110 – Emergency EIDL Grants.</p>	<p>This section is applicable to loans made under Small Business Act section 7(a)(b)(2), or Economic Injury Disaster Loans (EIDL). EIDL loans are made by the SBA, and all credit unions may apply for a EIDL loan if they meet eligibility requirements.</p> <p>The SBA is waiving any rules related to personal guarantees if the loan amount is less than \$200,000. The SBA is also waiving the requirement that an applicant be in business for the 1-year period before the disaster. However, the business must have been in operation on January 31, 2020. The</p>	<p>None specified.</p>	<p>Small Business Administration (SBA) to issue implementing regulations for all of Title I within 15 days of enactment.</p>

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<p>Section 1110 – Emergency EIDL Grants. (cont’d)</p>	<p>SBA is also waiving the requirement that the applicant show that they cannot obtain credit elsewhere.</p> <p>EIDL loans may be approved solely on credit score of the applicant and no tax return is necessary, or the SBA may use alternative data to determine ability-to-repay.</p> <p>Applicants of EIDL loans under Small Business Act 7(b)(2) may request an advance within 3 days of submitting the application. During the covered period from January 31, 2020 through December 1, 2020, an “emergency grant” may be provided up to \$10,000 and may be used for any purpose allowable under Small Business Act section 7(b)(2) including payroll, sick leave, rent, mortgage, supply chain disruptions, repaying obligations that cannot be met due to revenue loss. An applicant that receives an advance does not have to repay the advance, even if they are subsequently denied a loan under 7(b)(2). However, if the applicant is approved for a 7(a) loan the amount the amount of the approved advance will be deducted from any forgiveness for loans for payroll costs made under 7(a). The SBA’s authority for “emergency grants” ends on December 31, 2020.</p>	<p>None specified.</p>	<p>Small Business Administration (SBA) to issue implementing regulations for all of Title I within 15 days of enactment.</p>
<p>Section 1112 – Subsidy for Certain Loan Payments.</p>	<p>This section applies to all credit unions that currently offer 7(a) loans. This section applies to loans made under Small Business Act section 7(a), with the exception of loans made under the Paycheck Protection Program.</p> <p>Congress stated a policy purpose – to encourage lenders to provide payment deferments, extend maturity of covered loans (where appropriate), and avoid balloon payments.</p>	<p>None specified.</p>	<p>Small Business Administration (SBA) to issue implementing regulations for all of Title I within 15 days of enactment.</p>

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<p>Section 1112 – Subsidy for Certain Loan Payments. (cont’d)</p>	<p>The SBA will pay for principal, interest, and fees for covered loans in regular servicing status. Payments begin 30 days after the date of which the first payment is due. This section does not currently provide how payments are made or when these payments are made.</p> <ul style="list-style-type: none"> • For covered loans made before the date of enactment and not in deferment, the SBA will make payments for the 6-month period beginning with the next payment due on the covered loan; • For covered loans made before the date of enactment and on deferment, for the 6-month period beginning with the next payment due on the covered loan after the deferment period; and • For covered loans made before the date of enactment and ending on the date that is 6 months after the date of enactment, for the 6-month period beginning with the first payment due of the covered loan. <p>The Administrator has the authority to waive any statutory limits on maximum loan maturities for covered loan durations where the lender provides the borrower with a deferral and extends the maturity during year after enactment of the CARES Act.</p>	<p>None specified.</p>	<p>Small Business Administration (SBA) to issue implementing regulations for all of Title I within 15 days of enactment.</p>
<p>Section 2202 – Special Rules for Use of Retirement Funds.</p>	<p>If the credit union provides certain tax-advantaged retirement plans then this section may be applicable. For example, all 401(k) plans must be established and supported by a formal written plan document that complies with the Internal Revenue Code (IRC). Sponsors must amend the written plan when the tax laws affecting 401(k) plans change.</p>	<p>None specified.</p>	<p>Internal Revenue Service (IRS) No explicit requirement to issue regulations.</p>

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<p>Section 2202 – Special Rules for Use of Retirement Funds. (cont'd)</p>	<p>Section 2202 of the Act provides that Section 72(t) of the Internal Revenue Code of 1986, which governs early withdrawal of funds from tax-advantaged retirement plans (e.g., IRAs, 401(k) or 403(b)), shall not apply to any “coronavirus-related distribution.” A coronavirus-related distribution is one made from an eligible retirement plan made after January 1, 2020 and before December 31, 2020 by an individual diagnosed with SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the CDC, or whose spouse is similarly diagnosed and tested, and who experiences adverse financial consequences, among other factors specified in the Act.</p> <p>The administrator of an eligible retirement plan may rely on an employee’s certification that the employee satisfies the conditions in the law in determining whether any distribution is a coronavirus-related distribution.</p>	<p>None specified.</p>	<p>Internal Revenue Service (IRS) No explicit requirement to issue regulations.</p>
<p>Section 2203 – Temporary Waiver of Required Minimum Distribution Rules for Certain Retirement Plans and Accounts.</p>	<p>Waives the required minimum distribution rules for certain defined contribution plans and individual retirement accounts (IRAs) for calendar years beginning December 31, 2019. Defined contribution plans include eligible deferred compensation plans under section 457(b) if the plan is maintained by an employer.</p>	<p>None specified.</p>	<p>Internal Revenue Service (IRS) No explicit requirement to issue regulations.</p>

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<p>Section 2301 – Employee Retention Credit for Employers Subject to Closure Due to COVID-19.</p>	<p>Certain employers will be eligible for a refundable payroll tax credit of 50% of wages paid to employees retained during the crisis. In part, the employer must either:</p> <ul style="list-style-type: none"> • Have had operations were partially or fully suspended due to a COVID-19-related shutdown order; or • Gross receipts declined by more than 50% when compared to the same quarter the prior year. <p>The credit differs for employers with over 100 employees. The credit applies for wages paid or incurred from March 13, 2020 through December 31, 2020.</p>	<p>None specified.</p>	<p>Department of Treasury (Treasury) and Internal Revenue Service (IRS). Treasury to issue forms, instructions, regulations and guidance as necessary.</p>
<p>Section 2302 – Delay of Payment of Employer Payroll Taxes.</p>	<p>Allows employers to defer the employer share of Social Security tax they are responsible for paying for their employees, generally 6.2%. The deferred tax must be paid over a 2 year period, with half due by December 31, 2021 and the second half due by December 31, 2022.</p>	<p>None specified.</p>	<p>Department of Treasury (Treasury) and Internal Revenue Service (IRS). Treasury to issue guidance and regulations as necessary.</p>
<p>Section 3601 – Limitation on Paid Leave.</p>	<p>Amends the additions made to the Family and Medical Leave Act by the Emergency Family and Medical Leave Expansion Act which is effective April 2, 2020.</p> <p>Limits certain leave paid by employers to no more than \$200 per day and \$10,000 in the aggregate for each employee.</p>	<p>December 31, 2020</p>	<p>Department of Labor (DOL). No explicit requirement to issue regulations.</p>

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<p>Section 3602 – Emergency Paid Sick Leave Act Limitation. Section 3602 – Emergency Paid Sick Leave Act Limitation. (cont’d)</p>	<p>Amends and adds limitations to the Emergency Paid Sick Leave Act which is effective April 1, 2020.</p> <p>Leave for:</p> <ul style="list-style-type: none"> • an employee subject to a Federal, State or local quarantine or isolation order related to COVID-19; • an employee who has been advised by a health care provider to self-quarantine due to COVID-19 concerns; or • an employee experiencing symptoms of COVID-19 who is seeking a medical diagnosis <p>is limited to \$511 per day and \$5,110 in the aggregate for each employee</p> <p>Leave for:</p> <ul style="list-style-type: none"> • an employee caring for someone subject to a local quarantine or isolation order or someone who has been advised to self-quarantine, as described above; • an employee caring for their child if the child’s school or child care is closed or unavailable due to COVID-19 precautions; or • the employee is experiencing any “substantially similar condition” specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor <p>is limited to \$200 per say and \$2,000 in the aggregate for each employee.</p>	<p>December 31, 2020</p>	<p>Department of Labor (DOL). No explicit requirement to issue regulations.</p>

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Section 3605 – Paid Leave for Rehired Employees.	<p>Amends the additions made to the Family and Medical Leave Act by the Emergency Family and Medical Leave Expansion Act which is effective April 1, 2020.</p> <p>Adds clarification to the definition of “eligible employees” regarding rehired employees. Allows employees that were laid off by the credit union on March 1, 2020 or later to have access to paid family and medical leave if they are rehired. Specifically, the employee would need to have worked or the credit union for at least 30 of the last 60 calendar days prior to being laid off.</p>	December 31, 2020	Department of Labor (DOL). Explicit requirement for DOL to issue guidance.
Section 3606 – Advance Refunding of Credits.	<p>Amends the Families First Coronavirus Response Act.</p> <p>Adds clarification that certain payroll tax credits to employers providing paid sick leave under the Emergency Paid Sick Leave Act are refundable and can be advanced by the Secretary of the Treasury. Also adds authority for Treasury to issue regulations to implement advancement of tax credits.</p>	December 31, 2020	Department of Treasury (Treasury) to issue regulations or guidance implementing the payroll credit under prior legislation.
Section 3607 – Expansion of DOL Authority to Postpone Certain Deadlines.	Amends the Employee Retirement Income Social Security Act (ERISA) to allow the Department of Labor to postpone certain deadlines in the case of a public health emergency declared by the Secretary of Health and Human Services.	None specified.	Department of Labor (DOL). No explicit requirement to issue regulations.

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<p>Section 4003 – Emergency Relief and Taxpayer Protections.</p>	<p>Outlines the Treasury’s Exchange Stabilization Fund. \$500 billion will be allocated to Treasury’s Exchange Stabilization Fund to provide loans, loan guarantees, and other investments to several sectors affected by the coronavirus. Of this, \$454 billion will be available to support eligible businesses, States or municipalities. This relief will be available to eligible businesses through programs and facilities through the Federal Reserve. This will include a Direct Loan program, assistance for mid-sized businesses between 500 and 10,000 employees, and a Main Street Lending Program directed at small and mid-sized businesses.</p> <p>Terms and conditions for direct loans include, among other things, abiding by the employee compensation requirements of Section 4004. Direct lending to mid-sized businesses affected by the coronavirus also requires a good-faith certification that the eligible business will restore no less than 90 percent of its employees as of February 1, 2020 and retain those employees until September 30, 2020, among other conditions.</p>	<p>None specified.</p>	<p>Department of Treasury (Treasury) and Federal Reserve Board (FRB). Treasury to establish procedures for applications and standards for loans. FRB to establish and implement the programs.</p>
<p>Section 4008 – Debt Guarantee Authority.</p>	<p>The NCUA Board may, by vote, increase by an unlimited amount the share insurance coverage on non-interest bearing transaction accounts through December 31, 2020.</p>	<p>December 31, 2020</p>	<p>National Credit Union Administration (NCUA). No explicit requirement to issue regulations.</p>
<p>Section 4013 – Temporary Relief from Troubled Debt Restructurings.</p>	<p>The “applicable period” for this provision begins March 1, 2020 and ends on the earlier of December 31, 2020 <u>or</u> the date that is 60 days after the date on which the national emergency concerning COVID-19 terminates.</p> <p>A credit union may elect to suspend requirements under U.S. Generally Accepted Accounting Principles (GAAP) for loan modifications related to the</p>	<p>None specified.</p>	<p>National Credit Union Administration (NCUA). No explicit requirement to issue regulations.</p>

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<p>Section 4013 – Temporary Relief from Troubled Debt Restructurings. (cont’d)</p>	<p>coronavirus pandemic, and suspend any such determination regarding loans modified as a result of the effects of the coronavirus during the “applicable period.”</p> <p>The NCUA must defer to a credit union to make a suspension.</p> <p>For modified loans for which suspensions under this section apply, credit unions should continue to maintain records of the volume of loans involved and NCUA may collect data about these loans for proprietary purposes.</p>	<p>None specified.</p>	<p>National Credit Union Administration (NCUA). No explicit requirement to issue regulations.</p>
<p>Section 4014 – Optional Temporary Relief from Current Expected Credit Losses.</p>	<p>Gives credit unions the ability to temporarily delay measuring credit losses on financial instruments under the new Current Expected Credit Losses (CECL) methodology. The option to delay expires at the earlier of December 31, 2020, or the date on which the national emergency declaration related to coronavirus is terminated.</p> <p>If a credit union elected to adopt CECL early, then this would provide optional relief if they had planned on being subject to the standard this year. FASB had previously delayed the mandatory effective date for CECL until 2023 for credit unions.</p>	<p>None specified.</p>	<p>National Credit Union Administration (NCUA). No explicit requirement to issue regulations.</p>

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<p>Section 4016 – Temporary Credit Union Provisions.</p>	<p>Temporarily enhances access to the Central Liquidity Facility (CLF), including for corporate credit unions, to meet liquidity needs. Increases resources available to meet liquidity needs through the Facility.</p> <p>In general, these amendments temporarily improve the NCUA’s ability to tap the CLF for liquidity and create additional flexibility for corporate credit unions acting as agents and when accessing the CLF to meet liquidity needs. The FCU Act is temporarily amended to encompass the liquidity needs of corporate credit unions. The FCU Act is also amended to temporarily allow corporate credit unions more flexibility when accessing the CLF as an agent since the subscription doesn’t need to necessarily cover <u>all</u> natural credit union members of the corporate.</p> <p>The Act may also set a higher bar for accessing the CLF since it now directs the credit union to prove that it has tried tapping other sources of liquidity first.</p> <p>The CLF gets a temporary boost to its leverage limit. The NCUA Board, on behalf of the CLF, may borrow from any source, provided that the total face value of these obligations shall not exceed twelve times the subscribed capital stock and surplus of the Facility, provided that, the total face value of such obligations shall not exceed 16 times the subscribed capital stock and surplus of the Facility for the period beginning on the date of enactment of the Coronavirus Economic Stabilization Act of 2020 and ending on December 31, 2020</p>	<p>December 31, 2020</p>	<p>National Credit Union Administration (NCUA). No explicit requirement to issue regulations.</p>

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<p>Section 4021 – Credit protection during COVID-19.</p>	<p>Amends the Fair Credit Reporting Act (FCRA) by requiring furnishers of information to consumer reporting agencies, such as credit unions, to report an account current if an accommodation has been made to defer, modify, forbear or accept partial payment on 1 or more payments during the COVID-19 pandemic (defined as the later of 120 days after enactment or 120 days after termination of the national emergency). If the account was delinquent prior to the accommodation, furnishers should maintain that status unless the consumer brings the account current.</p>	<p>None specified.</p>	<p>Consumer Financial Protection Bureau (CFPB). No explicit requirement to issue regulations.</p>
<p>Section 4022 – Foreclosure Moratorium and Consumer Right to Request Forbearance.</p>	<p>This section covers federally backed mortgage loans, which include loans purchased or securitized Fannie Mae/Freddie Mac, made, guaranteed, or insured by the Department of Agriculture, guaranteed or insured by the Department of Veterans Affairs, and insured by the FHA.</p> <p>Forbearance. A borrower experiencing financial hardship has a right to request a special forbearance lasting up to 180 days (with the option of an additional 180 day period) during the pendency of the “covered period.” The covered period is defined as the period beginning on the date of enactment of the Act and ending on the sooner of the termination date of the national emergency or December 31, 2020.</p>	<p>None specified.</p>	<p>Consumer Financial Protection Bureau (CFPB), Federal Housing Finance Agency (FHFA), Housing and Urban Development (HUD), and the Department of Veterans Affairs (VA). No explicit requirement to issue regulations.</p>

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<p>Section 4022 – Foreclosure Moratorium and Consumer Right to Request Forbearance. (cont'd)</p>	<p>During the period of forbearance under this section, no fees, penalties, or interest beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the mortgage contract, shall accrue on the borrower’s account.</p> <p>Requirements for Servicers. When a servicer receives a request for a forbearance the servicer shall do the following:</p> <ul style="list-style-type: none"> • If the borrower attests to financial hardship (does not require documentation), then the servicer shall, without charging any fees penalties or interest (beyond what is ordinarily calculated when the borrower is current on all payments under the terms of the mortgage contract), provide the forbearance for up to for up to 180 days, which shall be extended for an additional period of up to 180 days at the request of the borrower (provided the additional requests are made within the covered period). <p>Foreclosure Moratorium. The servicer of a Federally backed mortgage loan may not initiate any judicial or non-judicial foreclosure process, move for a foreclosure judgment or order of sale, or execute a foreclosure-related eviction or foreclosure sale for not less than the 60-day period beginning on March 18, 2020.</p>	<p>None specified.</p>	<p>Consumer Financial Protection Bureau (CFPB), Federal Housing Finance Agency (FHFA), Housing and Urban Development (HUD), and the Department of Veterans Affairs (VA). No explicit requirement to issue regulations.</p>

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<p>Section 4023 – Forbearance of Residential Mortgage Loan Payments for Multifamily Properties with Federally Backed Loans.</p>	<p>Provides up to 90 days of forbearance for multifamily borrowers with a federally backed multifamily mortgage loan who have experienced a financial hardship during a covered period, which is of the same duration as in section 4022. Applicable mortgages include loans to real property designed for 5 or more families that are purchased, insured, or assisted by Fannie Mae, Freddie Mac, or HUD.</p> <p>Request for Relief. Multifamily borrower must have been current on its payments as of February 1, 2020. The request for the forbearance can made orally or in writing, and must affirm financial hardship during COVID-19 emergency.</p> <p>Forbearance Period. Upon receipt of an oral or written request, the servicer shall provide the forbearance for up to 30 days, and, upon the request of the borrower, extend to two additional 30-day periods for a maximum of 90 days, provided the additional request is made within the covered period and at least 15 days prior to the end of the forbearance period. The servicer must document the hardship (in contrast with section 4022).</p> <p>Renter Protections During Forbearance. Borrowers receiving forbearance may not evict or charge late fees to tenants for the duration of the forbearance period.</p>	<p>None specified.</p>	<p>Consumer Financial Protection Bureau (CFPB), Federal Housing Finance Agency (FHFA), and Housing and Urban Development (HUD). No explicit requirement to issue regulations.</p>

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Section 4024 – Temporary Moratorium on Eviction Filings	<p>For 120 days beginning on the date of enactment, landlords are prohibited from initiating legal action to recover possession of a rental unit or to charge fees, penalties, or other charges to the tenant related to such nonpayment of rent. The moratorium applies in a broad number of situations, including but not limited to when the landlord’s mortgage on that property is insured, guaranteed, supplemented, protected, or assisted in any way by HUD, Fannie Mae, Freddie Mac, or the rural housing voucher program.</p>	<p>None specified.</p>	<p>Federal Housing Finance Agency (FHFA) and Housing and Urban Development (HUD). No explicit requirement to issue regulations.</p>
Section 4029 – Termination of Authority.	<p>All authority to make new loans, loan guarantees, or other investments provided under Title IV of the Act shall terminate on December 31, 2020. The authority to make new loans, loan guarantees or investments is described in section 4003 of the Act, which contains the bulk of the stimulus spending provisions, including spending authorized by the Federal Reserve through special programs or lending and credit facilities.</p> <p>The duration of any loan or loan guarantee made under section 4003(b)(1) (i.e., the stimulus spending for air carriers and related businesses) that is modified, restructured, or otherwise amended shall not be extended beyond 5 years from the initial origination date of the loan or loan guarantee.</p>	<p>None specified.</p>	<p>Department of Treasury (Treasury) and Federal Reserve Board (FRB). No explicit requirement to issue regulations.</p>

This document is intended for informational purposes only. It does not constitute legal advice. If such advice or a legal opinion is required, please consult with competent local counsel.