

**GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE LIEUTENANT GOVERNOR
VIRGIN ISLANDS BANKING BOARD**

**TO ALL BANKS AND SERVICERS)
LICENSED AND DOING BUSINESS)
IN THIS TERRITORY) ORDER NO. 4/2020
_____)**

ORDER

WHEREAS, the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), a \$2.2 trillion stimulus package designed to mitigate the effects of the novel coronavirus disease (COVID-19), was signed into law by President Donald Trump on March 27, 2020; and

WHEREAS, the CARES Act provides emergency assistance and health care response for individuals, families and businesses affected by the 2020 coronavirus pandemic; and

WHEREAS, Title IV (“Economic Stabilization and Assistance to Severely Distressed Sectors of the United States Economy”) of the Act provides, among other things, several consumer protections in Sections 4022-4024: Foreclosure Moratorium and Consumer Right To Request Forbearance; Forbearance of Residential Mortgage Loan Payments For Multifamily Properties with Federally Backed Loans; and Temporary Moratorium on Eviction Filings; and

WHEREAS, the type of loans eligible for forbearance under sections 4022 and 4023 of the CARES Act are “Federally owned and backed mortgage loans;” and

WHEREAS, the term “Federally backed mortgage loan” includes: (1) any loan which is secured by a first or subordinate lien on residential property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from 1-4 families and (2) any loan other than temporary financing such as a construction loan that is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

WHEREAS, examples of federally owned or backed mortgages include loans owned or backed by: U.S. Department of Housing and Urban Development (HUD); U.S. Department of Agriculture; USDA Direct; USDA Guaranteed; Federal Housing Administration (FHA) (Includes reverse mortgages); U.S Department of Veterans Affairs (VA); Federal National Mortgage Association (Fannie Mae); and Federal Home Loan Mortgage Corporation (Freddie Mac); and

WHEREAS, the CARES Act requires servicers to notify borrowers in writing of their forbearance option during the national emergency; and

WHEREAS, residential borrowers may request forbearance on a Federally backed mortgage loan, regardless of the delinquency status of the loan, by submitting a request to the servicer and affirming that the borrower is experiencing financial hardship during the COVID-19 emergency; and

WHEREAS, by submitting a request to the servicer and an attestation of financial hardship due to the coronavirus, a borrower may obtain forbearance for **180 days**, plus up to another 180 days providing the second request is received within the initial 180 days forbearance period; and

WHEREAS, the CARES Act also provides the servicer shall not charge any fees or penalties beyond regular (non-default) interest accrued on the borrower's mortgage account during the forbearance period; and

WHEREAS, borrowers with a federally backed **multifamily mortgage loan** that was current on February 1, 2020, may orally or in writing request a **30-day** forbearance and up to two 30-day extensions as long as a request for an extension is made 15 days prior to the expiration of the current 30-day forbearance period; and

WHEREAS, a borrower with a multi-family mortgage loan that receives a forbearance shall not evict or initiate the eviction, charge any late fees, penalties or other charges for nonpayment of rent to tenants during the forbearance period; and

WHEREAS, Section 4024 establishes a temporary moratorium on residential eviction filings for tenants living in certain properties that are part of government programs or are financed by federally backed mortgage loans regardless whether a borrower has requested a forbearance under this Act; and

WHEREAS, borrowers may not require tenants to vacate the property until 30 days after the landlord provides the tenant with a notice to vacate and such notice may not be issued until after the expiration of the forbearance period; and

WHEREAS, multifamily borrowers who receive forbearance cannot for the duration of the forbearance, evict or initiate eviction procedures against tenants for non-payment of rent or other fees or charges or charge late fees, penalties or other charges to tenants for late payment of rent; and

WHEREAS, notwithstanding anything else to the contrary herein, this regulation is not applicable to, and does not affect any mortgage loans made, insured, or securitized by any agency or instrumentality of the United States, any Government Sponsored Enterprise, or a Federal Home Loan Bank, or the rights and obligations of any lender, issuer, servicer or trustee of such obligations, including servicers for the Government National Mortgage Association.

WHEREAS, borrowers with mortgage loans that are not subject to the CARES Act may request a 90-day forbearance, which is subject to the qualifications of the bank; and

WHEREAS, as it relates to Foreclosure, the CARES Act imposes a 60-day moratorium on foreclosures of Federally backed mortgages, beginning March 18, 2020; and

WHEREAS, the foreclosure moratorium provision of the Act does not apply to vacant and abandoned property; and

WHEREAS, as it relates to Temporary Moratorium on eviction filing, the CARES Act also provides that for a 120-day period beginning on March 27, 2020, the landlord of a “covered dwelling” is prohibited from filing a legal action to recover possession of a covered dwelling from the tenant for nonpayment of rent; and

WHEREAS, the landlord (borrower) is also prohibited from charging the tenant any fees or penalties because the tenant has not paid rent or evict tenant until after expiration of the Moratorium Period.

WHEREAS, a covered dwelling is defined as (1) a dwelling that is occupied by tenant pursuant to a residential lease or without a lease or with a lease that is terminable under the state law and (2) is in or on a covered property; and

WHEREAS, covered property means any property that participates in a “covered housing program” as defined by the Violence Against Women Act or “rural housing voucher program” under section 542 of the Housing Act of 1949 or has a federally backed mortgage loan or a federally backed multifamily mortgage loan; and

WHEREAS, the CARES Act also aids businesses suffering economic hardship during the Coronavirus (COVID-19) crisis; and

WHEREAS, Sections 1102 and 1106 of the CARES Act provide businesses the requirements of the Paycheck Protection Program; and

WHEREAS, Section 1102 of the CARES Act temporarily adds a new product, titled the “Paycheck Protection Program” to the U.S. Small Business Administration’s (SBA’s) 7(a) Loan Program; and

WHEREAS, the Paycheck Protection Program is a loan designed to provide a direct incentive for small businesses to keep their workers on the payroll; and

WHEREAS, the following entities affected by Coronavirus (COVID-19) may be eligible: (1) any small business that meets SBA’s size standards; (2) any business, 501(c)(3) non-profit organization, or tribal business concern with greater than 500 employees or that meets the SBA industry size standard if more than 500; (3) any business with a NAICS Code that begins with 72 that has more than one physical location and employs less than 500 per location; and (4) Sole proprietors, independent contractors, and self-employed persons; and

WHEREAS, the SBA Paycheck Protection Program will forgive loans if all employees are kept on the payroll for eight weeks and the money is used for payroll, rent mortgage interest, or utilities; and

WHEREAS, a business seeking to obtain this loan can apply through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating in the program; and

WHEREAS, other regulated lenders will be available to make these loans once they are approved and enrolled in the program; and

WHEREAS, every bank in the Territory is an SBA approved lender, and is thereby required to accept and process applications for the Paycheck Protection Program, if it is a participating member; and

WHEREAS, lenders may begin processing loan application on April 3, 2020 and the program will be available through June 30, 2020; and

WHEREAS, 9 VIC §61, grants the authority to the Virgin Islands Banking Board to regulate and supervise all banks and, to the extent of and with respect to business done at any branches established in this Territory, all foreign banks “in such a manner as to secure the safe and sound conduct of such business, to prevent unsound practices, and thus maintain the public confidence in such businesses and protect the public interest.”

NOW THEREFORE BE IT RESOLVED THAT:

In accordance with the authority of the Virgin Islands Banking Board under Section 61 of Title 9 of the Virgin Islands Code, it is hereby

ORDERED that this Order extends to federally backed and non-federally backed mortgages; and

FURTHER ORDERED that all banks and servicers in the U.S. Virgin Islands shall be required to provide to all borrowers a disclosure form, which must be signed by the borrower indicating their approval of the forbearance and, the terms of the forbearance, which should include the forbearance period, when payment(s) will be due after the forbearance period expires and the effect of the forbearance on the borrower’s escrow account; and

FURTHER ORDERED that no borrower shall be required to pay in full immediately after the termination of forbearance period expires the total amount due during the time of the forbearance period; and

FURTHER ORDERED that a copy of this Order shall be served, by certified mail, return receipt, upon:

Ms. Christiana C. Williams,

Community President
United Fidelity Bank, fsb d/b/a Bank of St. Croix
P.O. Box 24240
Gallows Bay
St. Croix, VI 00824-0240

Mr. James E. Crites,
President and CEO
Merchants Commercial Bank
4608 Tutu Park Mall, Suite 100
St. Thomas, VI 00802-1816

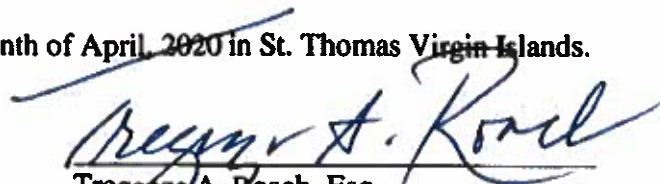
Ms. Oran C. Roebuck,
Senior Vice President & Division Manager
Virgin Islands Region
Banco Popular de Puerto Rico
P.O. Box 6580
St. Thomas, VI 00851

Mr. Valdamier Collens
Senior Vice President, Regional Executive
FirstBank Puerto Rico
11A and 11B Curaco Gade & Veterans Drive
P.O. Box 309600
St. Thomas, VI 00803

Ganish Kumar
Executive Vice President & Chief Operating Officer
Oriental Bank
254 Ave. Munoz Rivera
San Juan, Puerto Rico 00918

Dated this 8th day of the month of April, 2020 in St. Thomas Virgin Islands.




Tregenza A. Roach, Esq.
Lieutenant Governor
Chairman, Virgin Islands Banking Board

