

Updates to Loan Repayment Relief for Borrowers Affected by COVID-19

1. Purpose. The purpose of this Circular is to consolidate updates related to VA's disaster modification and loan deferment options. These options were previously described by Circular 26-21-07 and subsequent change circulars. For borrowers affected by COVID-19, these options will continue to be available through May 31, 2024.

2. Effective Date. This Circular is effective immediately.

3. Disaster Modifications and Loan Deferment.

a. Chapter 5.06 of the VA Servicic Handbook M26-4 provides circumstances in which servicicers may offer a VA Disaster Modification or a Disaster Extend Modification.¹

(1) A servicic can enter into a VA Disaster Modification if the modification is made not later than May 31, 2024, without VA preapproval. Additionally, a servicic can offer a VA Disaster Modification regardless of whether the borrower has entered into a COVID-19 forbearance plan and regardless of whether the COVID-19 pandemic directly caused the default. This is because VA has determined the effects of COVID-19 may continue to impact borrowers indirectly.

(2) Additionally, VA is allowing for Disaster Extend Modifications to extend the loan's original maturity date for up to 18 months, in cases where the loan is modified not later than May 31, 2024. VA does not normally allow for Disaster Extend Modifications to extend the loan's maturity date more than 12 months beyond the original maturity date without VA preapproval. The servicic can offer a Disaster Extend Modification regardless of whether the borrower has entered into a COVID-19 forbearance plan and regardless of whether the COVID-19 pandemic directly caused the default.

b. On September 14, 2020, VA provided guidance stating that servicicers could also utilize a novel home retention option (that is, loan deferment), to assist borrowers who invoked loan forbearance under section 4022 of the CARES Act (Pub. L. 116-136). Through this Circular, servicicers have the flexibility to offer loan deferment in cases where a borrower missed one or more payments because of the pandemic, regardless of whether such a payment was subject to a CARES Act forbearance. To offer loan deferment, the servicic must defer payment of the total amount of missed payments (principal, interest, taxes, and insurance) to the loan maturity date or until a borrower refinances the loan, transfers the property, or otherwise pays off the loan, whichever occurs first. Servicicers cannot charge any added costs, fees, or interest to the borrower. Servicicers cannot impose any penalty for the borrower's early payment of the deferred amount.

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¹ 38 U.S.C. § 3720(a)(2) authorizes the Secretary to consent, at the Secretary's discretion, to the modification of guaranteed loans. VA's requirements for traditional loan modifications are found at 38 C.F.R. § 36.4315. VA also outlines in the VA Servicic Handbook M26-4, Ch. 5.06, other terms and conditions to which VA has consented, in advance, to loan modifications, such as the VA Disaster Modification and Disaster Extend Modification.

Servicers can only utilize the loan deferment option in cases where the borrower is able to return to normal loan repayment under the loan contract. For VA's purposes, the servicer does not need and should not enter into a modification agreement that alters the terms of the existing loan for the purposes of a loan deferment option. In consideration of the continued effects of the COVID-19 pandemic and continued evolution of the marketplace, and to relieve undue prejudice to a debtor, holder, or other person, for the purpose of providing this loan deferment option, VA is temporarily waiving the requirement that a final loan installment payment shall not be in excess of two times the average of the preceding installments.² VA is also reminding servicers that, where applicable, servicers must comply with all Ginnie Mae program requirements.

c. For borrowers who received COVID-19 forbearance, servicers should also refer to Circular 26-24-2, Updates to VA's COVID-19 Home Retention Waterfall and COVID-19 Refund Modification, as these options have been incorporated into the COVID-19 Home Retention Waterfall. However, servicers can offer loan deferment and disaster modifications, as described by this Circular, to assist any borrowers who are financially affected by the COVID-19 pandemic, including those who did not receive COVID-19 forbearance. Regardless of any option or alternative chosen, servicers should not require a borrower to make a lump sum payment to bring the loan current.³

4. Questions. Any questions regarding this Circular should be submitted via ServiceNow at <https://www.benefits.va.gov/HOMELOANS/contact.asp>.

5. Rescission. Circular 26-21-07, Circular 26-21-07 Change 1, Circular 26-21-07 Change 2, and Circular 26-21-07 Change 3 are immediately rescinded. This Circular is rescinded on June 1, 2024.

By Direction of the Under Secretary for Benefits

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² See 38 C.F.R. §§ 36.4338(a); 36.4310(a).

³ This limitation should not be construed as prohibiting a servicer from offering a loan deferment option under section 2.b. of this Circular.