



State of California

# BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

Gavin Newsom, Governor  
Lourdes M. Castro Ramírez, Secretary

**TO:** Escrow Agents, Finance Lenders and Servicers, Student Loan Servicers, Residential Mortgage Lenders and Servicers, and Mortgage Loan Originators

**FROM:** Lourdes Castro Ramírez, Secretary  
Manuel P. Alvarez, Commissioner of Business Oversight

**DATE:** March 22, 2020

**SUBJECT:** Guidance for Lenders During the COVID-19 Pandemic

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This guidance is directed to escrow agents, finance lenders and servicers, student loan servicers, residential mortgage lenders and services, and mortgage loan originators whose customers may be suffering from loss of income or other financial hardship as a result of the COVID-19 pandemic.

## Background

COVID-19 is a respiratory illness caused by a novel virus that has been spreading worldwide. Community-acquired cases have now been confirmed in California. We are gaining more understanding of COVID-19's epidemiology, clinical course, immunogenicity and other factors, and the situation is changing daily. It has become clear that the response to this pandemic will continue for many weeks, if not months. On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency as a result of the COVID-19 pandemic. On March 16, 2020 the Governor issued Executive Order [N-28-20](#), directing the Department of Business Oversight (Department) to work with financial institutions to identify tools to be used to afford Californians relief from the threat of residential foreclosure and displacement, and to otherwise promote housing security and stability during this state of emergency. The executive order also requested financial institutions to implement an immediate moratorium on foreclosures arising from causes related to COVID-19.

## Context

Many Californians have already experienced losses of income or other financial hardships during the COVID-19 pandemic as the result of business closures, lost hours

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or wages, and layoffs related to the pandemic. Over time, these are likely to grow in number as the virus continues to present a threat. In furtherance of the Governor's executive order, the Commissioner of Business Oversight issues this guidance to escrow agents, finance lenders and servicers, student loan servicers licensed under the Student Loan Servicing Act, and residential mortgage lenders and servicers licensed under the California Financing Law (CFL) and California Residential Mortgage Lending Act (CRMLA).

## **Guidance**

The Department will not take enforcement action against licensees for operating unlicensed branches to the extent that, during the state of emergency, employees conduct activities from home that normally would require a branch license, provided that appropriate measures are taken to protect consumers and their data.

The Department will not criticize student loan servicers or licensees sponsoring mortgage loan originators who permit their respective employees to work from home, provided that:

- a. The employee does not keep any physical business records at home or anywhere other than the licensed location;
- b. The employee does not meet with any customers at home;
- c. The licensee has a procedure in place to supervise employees as required by law;
- d. The employee uses only computers and devices that are encrypted and accesses the licensee's network using a virtual private network that is encrypted; and,
- e. The licensee and employee take all other necessary measures to protect consumer data privacy.

This paragraph also applies to Escrow Law licensees; however, they should be aware that the Department cannot modify any restrictions that may be imposed by the Fidelity Corporation or the licensee's surety bond.

The Commissioner recommends that licensees:

1. Offer payment accommodations, such as allowing borrowers to defer or skip some payments or extend the payment due date, which would avoid delinquencies and negative credit bureau reporting caused by COVID-19-related disruptions. Mortgage lenders may also ease terms for new loans to affected borrowers, consistent with prudent banking practices, and consult Federal Housing Administration [guidance](#) on loss mitigation options. Prudent efforts to modify the terms on existing loans for affected customers will not be subject to examiner criticism by the Department.
2. Exercise discretion in determining which of their services and transactions are "essential services" for the purposes of "stay-in-place" or "shelter-in-place" orders.

3. Report to the Department any disruption of services provided to consumers.

Escrow Law, CFL, and CRMLA licensees should continue to comply with the fair lending and borrowing provisions of the California Homeowner Bill of Rights (HBOR). The HBOR is designed to guarantee basic fairness and transparency for homeowners in the foreclosure process. Key HBOR provisions can be found on the California Department of Justice's [website](#).

The Department will not criticize any late mortgage recordation arising from the closure of a county recorder's office related to COVID-19.

This guidance does not amend any of the Department's statutes or regulations.