**Q. Is there a foreclosure moratorium in New York State?**

Yes. All pending foreclosure actions have been stayed in New York , and no new foreclosure actions can be filed until it is further ordered. A foreclosure cannot be filed against you during this time, and any appearances or deadlines in existing matters are suspended until further notice.

**Q. Did Governor Cuomo suspend the obligation to make mortgage payments for everyone during the COVID-19 pandemic?**

No. New York State does not have the authority to unilaterally make this policy change, but the state is urging all lenders to work with homeowners during this time. If you have not experienced an economic hardship because of the pandemic, homeowners should continue to make their mortgage payments. If you have lost income because of the pandemic, Governor Cuomo and the NYS Department of Financial Services (DFS) urged all lenders and mortgage servicers to not require mortgage payments be made for 90 days (through June 19, 2020).  While we hope and expect lenders and servicers to comply with the Guidance, at this time none of the major financial institutions have announced any detailed plans of how they will work with mortgage holders. If you are not able to make your mortgage payment, reach out to your lender to talk to them about the situation.

**Q.** **I was already behind on my mortgage.  Can my lender start a foreclosure action against me during the pandemic?**

No. Foreclosure filings are not allowed in New York on any mortgage until further notice from the New York State Unified Court System. The U.S. Department of Housing and Urban Development (HUD) announced that no foreclosure actions can be started on FHA-insured mortgages until at least May 18, 2020.

**Q.** **I was in the middle of a foreclosure action when the COVID-19 pandemic began.  Am I in danger of losing my home in the middle of this pandemic?**

No foreclosure sales can occur until further notice from   the New York State Unified Court System.

**Q.** **Do I need to attend a previously scheduled settlement conference?**

No. All settlement conferences and other appearances have been cancelled until further notice from   the New York State Unified Court System.

**Q.** **Do I need to meet filing or other deadlines?**

No. All deadlines to file an answer, motion, response or other pleading have been suspended until at least April 19, 2020. In addition, if your loan is insured through FHA and a judgment was already issued, the federal government has hold on any foreclosure sales through May 18, 2020.

**Q.** **My home was already sold at auction but I am still living in it. Can I be evicted?**

No. All evictions in New York are on hold by state court order, pending further notice. This includes evictions from homes following a foreclosure sale.

**Q. What happens if I was in a trial loan modification?**

For homeowners currently in a trial modification, continue to make payments if you are financially able to do so. Your lender will honor the agreement you are in, and will continue towards a permanent modification if you are able to make all of your trial plan payments.

If you are not able to make trial payments as a result of the Covid-19 pandemic, Governor Cuomo has urged lenders and mortgage servicers to offer a 90-day grace period (until June 17, 2020) for further trial plan payments.  We hope that all lenders will agree to do this, but at this time none of the major lenders have announced detailed plans regarding this.  You should reach out to your servicer, as well. As more information becomes available, we will provide updates*.*

**Q. I have an FHA Mortgage, and I can’t afford to make payments on my mortgage due to layoff or reduced work as a result of due to the Covid-19 pandemic? Is there any relief?**

There are different rules that apply to FHA-insured mortgages. FHA-insured mortgages are in a 60-day moratorium for any foreclosure actions, meaning that no further action will be taken to move forward any foreclosures that have already begun. This also means that no new foreclosure actions will be filed during that time period. In addition, evictions for FHA mortgage homeowners are not allowed for 60 days.

**Q.** **What if I am in a Chapter 13 bankruptcy to save my home, do I have to continue to make plan payments? What if I can’t because I lost income due to the COVID-19 pandemic?**

For those in Chapter 13 bankruptcies, you must continue to make your monthly bankruptcy payment.   If you cannot afford to make plan payments, contact your lawyer or the trustee of the bankruptcy court, as well as your mortgage servicer.

**Q.** **What if there is a pending tax foreclosure action against my home?**

Tax foreclosures are handled at the local level in New York, by either your county, municipality or town. You need to check with your local taxing authority for details. All foreclosure actions, including tax foreclosures, pending in the courts should be stayed and no new tax foreclosures can be filed at this time. If a sale has been scheduled for your home, contact your local taxing authority. If your home already was sold through a tax auction but you are still in the home, you cannot be evicted right now.

**Q. What about homeowners insurance?**

If you pay your homeowners insurance through your mortgage but you stop making mortgage payments, it is very likely the mortgage lender will continue to pay your homeowners insurance. If you pay your homeowners insurance directly, meaning you write the check out to the insurance company (or pay online or however), and you cannot pay it because of loss of income as a result of the COVID-19 pandemic, you should contact your insurance company immediately. The New York State Department of Financial Services issued guidance asking the insurance industry to work with homeowners affected by the Covid-19 pandemic.  This includes allowing consumers to defer payments at no cost, extending payment due dates, and waiving late or reinstatement fees.  While this guidance does not have the force of law, it is a strong request to the industry.

**RENTERS**

**Q. I am a renter.  Can I be evicted now?**

No. All evictions in New York are on hold by state court order, pending further notice. No new evictions can be filed until further notice by the New York State Unified Court System.

**Q.** **Does this mean I don’t have to pay rent during the pandemic?**

No. The legal requirement to pay rent still applies. If you stop making rental payments, you could face eviction when the courts reopen.

**Q. I have more questions as a tenant. Are there more resources?**

Yes. Go to the Housing Justice for All website at <https://www.housingjusticeforall.org/faqs>.

**DEBT-RELATED**

**Q. I lost my job and overdrew on my bank account. Can I be charged overdraft fees?**

Yes, however, the NYS Department of Financial Services issued guidance asking the banking industry to waive overdraft fees (as well as ATM fees).   While this guidance does not have the force of law, it is a strong request to the industry.

**Q. I lost my job and can’t afford to make credit card payments. What will happen?**

The New York State Department of Financial Services) issued guidance asking the banking industry to waive late fees for credit card balances.  In addition, the guidance instructs companies to offer payment accommodations, and extend the payment due dates for consumers affected by the Covid-19 pandemic.  While this guidance does not have the force of law, it is a strong request to the industry.

**Q. If I owe debt, can my bank account be restrained or my wages garnished during the pandemic? What can I do if my account is already being restrained for a judgment but I need the money because I lost wages?**

If a restraint is already in place and you wish to remove it, contact your local legal services program. It is unclear whether this kind of action can be addressed by the courts at this time.   No new legal actions can be filed at this time in the New York courts, so no new judgments/account restraints/wage garnishments can be put in place.

***Please note:****Do not send us any nonpublic information about any legal matter for which you seek legal representation until we request that you do so. Empire Justice attorneys will inform you if and when your matter is considered for legal representation. Until that time, any information you provide WILL NOT be considered confidential, and NO attorney-client relationship is formed by communications received through this website. Any information available on the website is for general legal education purposes only, and is not legal advice.*