

During the 2020 Special Session, the Oregon Legislature passed House Bill (HB) 4204 as a strategy to protect Oregonians from the effects of the Covid-19 pandemic. The Division has received many inquiries from licensees on how to comply with its provisions, particularly the accommodation notice that must be sent by August 29, 2020; however, HB 4204 does not direct the Division to do any rule-making or any other official duties concerning the enforcement of the Act. It gives consumers harmed by a violation of the bill the right to sue for their own recovery. Nevertheless, those who are licensed as mortgage servicers from our office are required to comply with other servicing laws and the Division has general authority to take action if the servicer violates a servicing law. Therefore, we are providing information about the Division's expectations regarding compliance and what we will consider when conducting compliance examinations or responding to consumer complaints.

Specifically, HB 4204 identifies an emergency period beginning on March 8, 2020 and ending on September 30, 2020. The Governor may extend this period by executive order. She will have to issue the executive order by August 31, 2020. During the emergency period, HB 4204 provides with regard to loans secured by residential one-to-four property:

- A lender may not treat a borrower's failure to pay as a default if the borrower notifies the lender during the emergency period that he or she cannot make the payment and attests that it is due to loss of income due to the pandemic. The borrower only needs to provide this notice once during the emergency period.
- The lender and borrower may still agree to a modification, deferral or other loss mitigation as a result of the borrower's inability to pay and that supersedes the provisions of the deferral under HB 4204.
- The lender may not use the missed payment(s) to disqualify the borrower from foreclosure avoidance measures.
- Any missed payments are deferred until the anticipated end of the loan.
- The lender may perform an escrow analysis and adjust the escrow impound to take into account any shortage or deficiency resulting from the deferred payments.
- The lender may not charge any fees, penalties, charges, other amount, or default interest rate as a result of the missed payment.
- The lender may not require an inspection, broker price opinion or use a lockbox as a result of the missed payment.
- The lender may not commence foreclosure proceedings during the emergency period. Any foreclosure proceedings in process are halted during the emergency period and the time periods tolled. The court may not enter a judgment of foreclosure and sale nor can a trustee sell the property.
- The loan servicer must send the borrower a notice of these rights by August 29, 2020.

The Division has prepared a sample notice that covers these rights.

Date: \_\_\_\_\_

Borrower \_\_\_\_\_ (“Borrower” or “You”)  
[Address] \_\_\_\_\_

Lender: \_\_\_\_\_  
Loan Servicer: \_\_\_\_\_ (“Loan Servicer”)  
Loan Number: \_\_\_\_\_ (“Loan”)  
Property Address: \_\_\_\_\_ (“Property”)

**NOTICE OF ACCOMMODATIONS PURSUANT TO  
OREGON HOUSE BILL (HB) 4204**

**IMPORTANT RIGHTS FOR BORROWERS**

You are receiving this notice because you are a Borrower, or a Successor in Interest to a Borrower, under a loan secured by a mortgage or deed of trust on the above-referenced Property. The Property is a Residential Property because it contains four or fewer residential units. The State of Oregon has enacted a new law, referred to for the purposes of this letter as “HB 4204” that potentially impacts your loan.

During the “Emergency Period,” which is defined as March 8, 2020, to September 30, 2020, unless further extended by the Governor, HB 4204 prevents certain lenders with loans secured by liens on commercial and residential real property or loans secured by personal property if that property is used as a residence in the State of Oregon from declaring a borrower in default for failing to make a regular payment (or paying any other amount due to the lender under the loan) if the borrower notifies the lender that the borrower will not be able to make the payment and attests that it is because of a loss of income due to the COVID-19 pandemic. If properly notified, the lender must (1) defer from collecting the payment, and (2) permit the borrower to pay the missed payment on the loan’s maturity.

A borrower need not provide notice to the lender more than once during the Emergency Period, and the lender cannot charge any late fees, attorney fees, or default interest as a result of the deferred payments. HB 4204 does not relieve a borrower of the obligation to pay the full amount of the loan; it only defers payments during the Emergency Period. **To take advantage of the payment deferral, you must notify the lender in writing or verbally that the payment or payments cannot be made because of a loss of income due to the COVID-19 pandemic.**

A deferred account means the lender has agreed that you can delay payment for a certain amount of time. If the payments are deferred, your credit report may show that the loan is in forbearance or in a deferred payment plan. This information may be used in calculating your credit score.

HB 4204 also prohibits all foreclosures during the Emergency Period. **HB 4204 does not apply to any judgments of foreclosure and sale, writs of execution, or notices of a trustee’s sale that were issued before the Emergency Period began.** For all foreclosures that were pending on March 8, 2020, HB 4204 freezes the proceedings until the end of the Emergency

Period, and tolls all applicable statutes of limitation. Foreclosures that were pending on March 8, 2020, can resume on October 1, 2020, unless the Governor extends the Emergency Period.

The accommodations provided under HB 4204 end 90 days after the expiration of the Emergency Period. The Governor has the right to extend the Emergency Period by providing notice of her decision to do so not later than August 31, 2020.

Signature Block  
for Loan Servicer