The COVID-19 Forbearance Moratorium Enlarges the Wound Caused by the Lack of Homeownership in Black America

Congress passed The Coronavirus Aid, Relief, and Economic Security Act (H.R.748), also known as the CARES Act, on March 26, 2020. The two trillion-dollar stimulus package is designed to help America fight the devastating spread of the COVID-19 disease and prevent the US economy from collapsing. The CARES legislation is the largest emergency aid package in US history. It is a massive financial injection into our struggling economy with provisions aimed at helping American workers, homeowners, small businesses, and industries grappling with the economic disruption from the coronavirus pandemic.

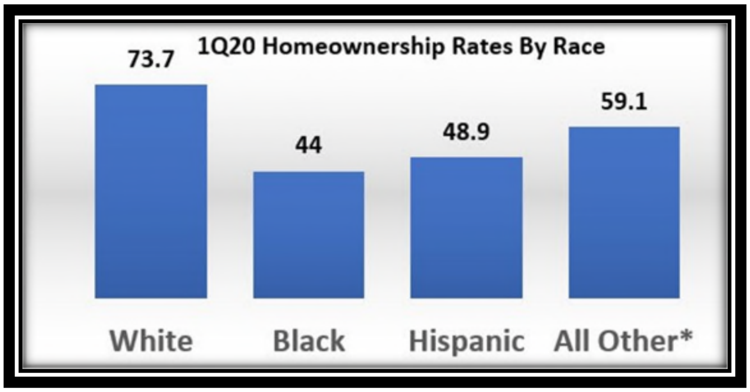
Unfortunately, there is no provision in Sec. 4022 to help renters. Sec. 4023 however, gives multifamily property owners the right to request a forbearance and renters receive eviction protection should the landlord choose to participate in the program.

Section 4022 of the CARES Act gives American homeowners the right to request a forbearance to stay in their homes and avoid foreclosure. This section gives a borrower with a federally backed mortgage loan (FBML) experiencing financial hardship, due directly or indirectly to the COVID–19 emergency, the right to request a forbearance on FBMLs from the loan's servicer, regardless of delinquency status.

Forbearance is a temporary postponement of mortgage payments. It is a form of repayment relief granted in lieu of forcing a property into foreclosure. Forbearance does not erase what is owed. The borrower has to repay any missed or reduced payments of principal and interest in the future. The missed payments can be paid at the end of the forbearance period, tacked on at the end of the mortgage term, or the loan can be refinanced or modified.

Section 4022 of the CARES Act will have a disparate impact on black Americans because it is designed to help homeowners. White Americans, with a 73.7% homeownership rate, own more homes relative to their proportion of the population, compared to a 44% black homeownership rate.

Figure 1: 1st Quarter 2020 the U.S. Census Bureau Homeownership Rates by Race



Whether homeowners are facing job loss, reduced income, illness, or business closures or other issues that impact their ability to make monthly mortgage payments, the government is working to ensure they are protected. Loan servicers have been directed to provide mortgage relief options that include:

- Ensuring payment relief by providing forbearance for up to 12 months
- Waiving assessments of penalties or late fees
- Halting all foreclosure actions and evictions of borrowers living in homes owned by the Enterprises until at least August 31, 2020
- There is no threat of foreclosure and no adverse information reported to a credit agency. The only criteria to qualify is the mortgage loan has to be federally backed

"With no fees, penalties, or interest, the servicer by law is expected to provide the forbearance for up to 180 days, which may be extended for an additional period of up to 180 days at the request of the borrower."[1]

Federally backed mortgage loans include any first or subordinate lien on residential real property (including condominiums and cooperatives) designed for 1-4 families that is insured by the Federal Housing Administration (FHA), guaranteed or insured by the Department of Veterans Affairs (VA), guaranteed or insured by the Department of Agriculture (FSA/RHS), and loans purchased or securitized by Fannie Mae and Freddie Mac (the Enterprises).

Renter Protections During A Multifamily Forbearance Period

With a 44% homeownership rate, the vast majority of black Americans are renters. Sec.4023 covers forbearance on multifamily properties with federally backed loans. Owners of multifamily properties may submit an oral or written request for forbearance to the borrower's servicer affirming that the multifamily borrower is experiencing a financial hardship during the COVID–19 emergency.

Upon receipt of an oral or written request for forbearance from a multifamily borrower, a servicer shall document the financial hardship; provide the forbearance for up to 30 days; and extend the forbearance for up to 2 additional 30 day periods upon the request of the borrower.

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[1] Sec. 4022 of the CARES Act, pg. 569

"During the multifamily owner's forbearance period renter's receive eviction protection. A multifamily borrower that receives a forbearance under this section may not, for the duration of the forbearance period—evict or initiate the eviction of a tenant from a dwelling unit located in or on the applicable property solely for nonpayment of rent or other fees or charges; or charge any late fees, penalties, or other charges to a tenant for late payment of rent. If a landlord does not participate in the forbearance program, renters are subject to local eviction processes."[2]

Section 4023 benefits landlords, renter's eviction protection is an afterthought. Eviction protection for renters in no way compares to the financial safety net of upwards to 12 months of delayed mortgage payments available for homeowners. Renters are expected to pay rent.

Execution of the CARES Act

Anecdotally, very few people in my circle of family, friends, and industry associates are aware of Sec. 4022, and if they are aware, they do not fully understand how it works. I know of multiple families with FBMLs who are suffering from COVID-19 financial hardships and qualify for the forbearance program. I told each family about the program and asked that they share the information with their network. It became clear that homeowners in the black community are not aware of Sec. 4022 of the CARES Act. It also became abundantly clear how important it is for the program to be properly executed.

The following are a few examples:

A realtor in Gaithersburg, MD experienced a significant reduction in her real estate business. She called her servicer, one of the 10th largest banks in the country, requested a Covid-19 forbearance on the conventional loan on her townhouse and was initially flat-out denied. It took multiple calls, long wait times, and an escalation to higher authorities for her to get a 180-day forbearance on both her first and second mortgage.

A nurse and single mother of three is experiencing financial hardships. She provides IV infusions to patients in their homes. Having three children at home accumulates extra expenses and requires extra care because of the coronavirus. She has an FHA loan, called her servicer, a top 40 independent mortgage company, and requested mortgage relief. The servicer knew nothing of the COVID-19 forbearance program, offered her a 3-month forbearance, saying the delayed payment would be due at the end of the forbearance period. This case is still unresolved.

A small family-owned restaurant with a staff of 12 applied for a Paycheck Protection Program (PPP) loan from a large bank that had their personal and business accounts. The PPP loan was denied without any explanation. The restaurant laid off its employees and had to close. Now with no family income, there was fear of losing their home to foreclosure. I informed the small business owner about the Sec. 4022 forbearance moratorium. They requested one from their mortgage servicer. Again, only through persistence, multiple calls, escalation to senior managers and the threat of a complaint to the Consumer Financial Protection Bureau (CFPB) was the family finally able to get the needed mortgage relief.

[2] Section 4023 of the CARES Act, pg.570

All of the above families are black. The treatment each family experienced may or may not have been based on a prohibited basis. But their experience reflects the need for fair servicing monitoring for both PPP loans and Sec. 4022 forbearance transactions.

CFPB Director Kathy Kraninger recently spoke before the Consumer Data Industry Association, sounding a note of caution to the industry as the bureau found consumer complaints at all-time highs in April and May. She noted the work that servicers, furnishers, and consumer reporting agencies need to do to help troubled consumers during the pandemic

Data by race, geography, and borrower qualification is needed to perform this type of fair lending analysis. This data on home mortgages is readily available from servicers because those records were reported to the government via the Home Mortgage Disclose Act (HMDA).

PPP loan data, however, has not been made public. If/when the data become public, it will need to be race-estimated to get proxies for race and gender. First and last names will be needed but can be anonymized for privacy purposes. The same is true of property addresses, which are needed to geocode the data to determine the demographic makeup of neighborhoods where the PPP loans were granted.

According to the McDash Flash Forbearance Tracker, "As of June 2, 2020, 4.73 million homeowners have already taken advantage of the government's forbearance program – or 8.9% of all mortgages – are in COVID-19 mortgage forbearance plans"[3]. Unfortunately, knowledge of the forbearance moratorium is not widespread, by homeowners or servicers. It is curious how, since its enactment on March 26, 2020, 4+ million homeowners have become aware of the CARES Act forbearance moratorium. No one in my network was aware of Sec. 4022.

Fortunately, in the CARES Act, Congress removed qualification barriers that existed in great recession loss mitigation programs. Sec. 4022 of the bill makes it easy for all FBMLs to be eligible. To get a COVID–19 forbearance, a homeowner can simply make a request from their mortgage servicer. No additional documentation is required, other than the assertion of a financial hardship caused by the COVID–19 pandemic. However, all American homeowners with an FBML experiencing financial hardship need to know about this provision of the two trillion-dollar CARES Act.

COVID-19 Hits Black Community the Hardest

The numbers below illustrate the need to make all Americans with FBMLs aware of Sec. 4022. More specifically, the numbers show why a concerted effort is needed to reach black American homeowners. Unless Sec. 4022 is executed appropriately, there is the potential to enlarge the wounds of racial disparities in homeownership, specifically the wounds affecting black homeownership preservation.

It is well documented that the black community has been hit the hardest, in all kinds of ways, by the effects of the coronavirus. Whether facing job loss, reduced income, illness, or business closures, the pandemic has been devastating to the black community. In addition, many black Americans are front-line

[3] https://www.blackknightinc.com/black-knight-number-of-homeowners-in-covid-19-related-forbearance-plans-falls-for-first-time-since-crisis-began-8-9-of-all-mortgages-now-in-forbearance/

essential workers. They do not have the benefit of being able to work from home, nor able to self-quarantine because they live in apartments, putting their loved ones at risk every day.

Black small businesses are also drastically impacted, both by the health crisis and the risk of losing their livelihood. Moreover, many of the small business owners are likely to be homeowners and could face a triple whammy of illness, business closure, and possibly foreclosing on their home.

Based on these current and historical financial, income, wealth, and health disparities, it can be deduced that blacks are more likely to experience COVID-19 financial hardships than other communities. This intensifies the need to get the word out to black homeowners with federally backed mortgages that may qualify and need mortgage payment relief.

Racial Disparities with FBMLs Favor White Americans

Using ComplianceTech's HMDA data mining software LendingPatterns™, 13-years of mortgage data were stratified with the requisite filters to show the number of loans purchased or securitized by the Enterprises by race and the number of government loans (FHA-VA-FSA/RHS) originated by lenders by race[4].

White Americans have more FBMLs that could potentially qualify for the forbearance moratorium. The loans presented do not imply these borrowers are experiencing financial hardships and qualify for the forbearance moratorium. Nor does the data attempt to suggest this pool of loans is the universe of FMBLs. In fact, it is highly probable there are many FBMLs outstanding, not included in this 13-year dataset. In addition, many, if not most loans made to all racial groups are not FBMLs and do not qualify for the forbearance moratorium. For instance, loans not sold remain in lenders portfolios and loans sold to non-agency investors, fall into these categories.

Thus, the numbers presented have inherent limitations. They however, offer a very good representative sample to illustrate how white Americans are better positioned to benefit from the forbearance moratorium and the significance of getting the word out to the small number of black homeowners who could qualify and benefit from the mortgage relief program.

Table 1 shows the number of FBMLs by race between 2007-2019. Overall, of the 46.5 million FBMLs, white Americans accounted for 35.8 million or 77%; black 3.3 million or 7%; Latinx 4.7 million or 10%; and Asians 2.4 million or 5.2%. Native American and Hawaiian shares were both less than .003%.

Table 1: FBMLs by Race (2007-2019)

	White	Black	Latinx	Asian	Native Amer.	Hawaiian	Total
Fannie-Freddie	21,599,014	969,570	2,047,537	1,953,090	62,370	76,137	26,707,718
FHA-VA-FSA/RHS	14,195,285	2,285,056	2,644,670	458,637	96,194	82,356	19,762,198
FBML	**35,794,299**	**3,254,626**	**4,692,207**	**2,411,727**	**158,564**	**158,493**	**46,469,916**

[4]LendingPatterns™ filters include a first or subordinate lien on residential real property (including condominiums and cooperatives) designed for 1-4 families excluding unknown or NA race.

When the subgroups of FBMLs, i.e., Fannie Mae and Freddie Mac versus FHA-VA and FSA/RHS are viewed separately however, the data reveals a disturbing story. For example, of the 26.7 million FBMLs purchased or securitized by the Enterprises, 21.6 million or 80.87% were white. On the other hand, of the 3.3 million black FBMLs the Enterprises purchased or securitized only 969,570 or 3.63%.

By contrast, of the 19.8 million FHA-VA-FSA/RHS loans, 14.2 million or 71.8 were white. Of the 3.3 million black FBMLs 2.3 million or 11.56% were FHA-VA-FSA/RHS. In other words, black FBMLs are 3.5 times more likely to be FHA-VA-FSA/RHS versus loans purchased or securitized by Fannie Mac and Freddie Mac. Table 2 shows the 13-year average percent of FBMLs for each subgroup by race.

Table 2: 13-year Average percent of FBMLs

Race	Fannie-Freddie	FHA-VA-FSA/RHS
White	**80.87**	**71.83**
Black	3.63	11.56
Latinx	7.76	13.38
Asian	7.31	2.32
Nat Amer	0.24	0.5
Hawaiian	0.29	0.4

The Enterprises do not originate loans, lenders do. The Enterprises and their regulator the Federal Housing Finance Agency (FHFA) have a tremendous influence on loan origination activities in America with their underwriting, pricing, and purchase guidelines. It could be their guidelines are too restrictive and black Americans, for many reasons, do not meet the Enterprises guidelines. Either way, the Enterprises have no control of lenders. Lenders could be the perpetrators because of some of the following reasons if they:

1. Do not obtain black loan applications
2. Discriminate in their lending practices and do not have an adequate compliance management system to detect disparities
3. Do not originate black loans of the type the Enterprises buy, i.e., FHA, VA or FSA/RHS or subprime
4. Choose not to sell black loans and keep them in portfolio or
5. Sell them to non-agency investors

This pattern of lending in America is direct evidence of a government-sponsored dual mortgage market: one white and one black, separate, and unequal. Fannie Mae and Freddie Mac predominantly serve the mortgage finance needs of white and Asian Americans. While the largest share of FHA, VA and FSA/RHS loans are also white, without the government loan programs, black and Latinx homeownership rates would be even lower. The CARES Act and Sec. 4022 can be an important provision to help black homeowners with home preservation. During the great recession, a disproportionate number of black homeowners lost their homes to short sales or foreclosures.

Targeted Execution of the COVID-19 Forbearance Moratorium is Critical

Although the number of black FBMLs are small, an intentional and targeted effort is needed to help black homeowners become aware of Section 4022 of the CARES Act. We must circulate government created guidance designed for the industry to understand servicers responsibilities under the law. We must circulate government guidance to consumers, with special emphasis on how to reach black Americans. We must use all available media outlets to get the word out.

Using word of mouth from the lending industry will not work because of the lack of diversity in the industry. Industry newsletters and webinars will not work because the readership and viewer are not directed to black Americans. Nor will public announcements by industry leaders work.

We must engage black churches and religious organizations, community organizations, black civil rights organizations, black fraternal organizations, and black real estate organizations, etc. We must connect with black celebrities to film public service announcements, run ads on social media such as Instagram and Facebook. White lenders, realtors, and mortgage trade organizations etc. also have a role to play. Using their vast resources, their involvement in promoting the availability of Sec. 4022 to black homeowners could be advantageous.

The promotion of the forbearance program to existing black homeowners will send a strong message to black non-homeowners. It can be used to send a strong message that homeownership despite its challenges, is better than renting.

All Americans, especially black Americans, should be aware of information the government has made available to explain Section 4022 of the CARES Act. For example, on June 5, 2020, the CFPB and Conference of State Bank Supervisors (CSBS) issued a joint press release to provide further clarity on the CARES Act forbearance and foreclosure to mortgage servicers. Consumers should read this release. It will let them know what the rules and expectations are for servicers.

https://files.consumerfinance.gov/f/documents/cfpb_csbs_industry-forbearance-guide_2020-06.pdf.

It provides an:

- Overview of CARES Act Forbearance Provisions
- Statutory Overview
- Relevant Rules and Guidelines and
- Questions and Answers

Finally, a joint website has been developed by the CFPB and the Department of Housing and Urban Development (HUD) to inform consumers about mortgage and housing assistance during the coronavirus national emergency. However, the website has not been widely promoted as a resource for homeowners experiencing COVID-19 related financial hardships.

https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/

It is important to know that in every major economic crisis, the American government has always bailed out and developed programs to advance homeownership. The great depression, the G.I. bill, the bailout of the great recession, and now the bailout during the great lockout; these programs have always helped white Americans stay in their homes. In other words, white Americans, sometimes need help too.

In closing, the black American population is being hit with a perfect storm. First, due to the overall low homeownership rate, the majority of black Americans are renters. Renters experiencing financial hardships only receive eviction protection from the CARES Act, and only then, if the landlord participates in the forbearance program. Second, comparatively, there are a small number of black FBMLs, but it is important to help those experiencing COVID-19 financial hardships keep their homes, especially since the majority of black loans do not qualify as FLBMs. Third, on top of all this, because of the lack of awareness due to poor outreach efforts, black Americans are not able to take advantage of the availability of this important mortgage relief program. The community and the industry must do a better job.

About the author:

Maurice Jourdain-Earl is the co-founder and Managing Director of ComplianceTech. The company's mission is to help transform the world into a place where credit providers and government agencies use technology to help people develop policies, practices, and procedures to monitor and ensure that all creditworthy borrowers have fair access to credit.

ComplianceTech is a web-based software development and consulting company that uses technology to help its clients detect discrimination in lending and servicing and has developed tools to help customers prepare and submit HMDA and CRA data to their regulators.

Maurice is a noted speaker and writer on HMDA and fair lending practices. DePaul University-Social Science.

Various Presentations and Speaking Engagements

- Fair Lending Mortgage Transparency and Accountability – SCLC Public Policy Conference and Presidential Forum – Columbia S.C. February 27, 2020
- What the GSE's Can Do to Narrow the Inequality in the Home Mortgage Lending Market? – Congressional Black Caucus Foundation Annual Legislative Conference, Washington DC – September 12, 2019
- The American Dream – 50 Years After the Fair Housing Act – US Department of Justice, April 25, 2019
- Home Mortgage Disclosure Act on the Horizon: What Type of Analysis Can be Performed? Mortgage Bankers Association, Legal Issues and Regulatory Compliance Conference, Chicago, IL May 2015
- 2008 Democratic National Convention – Housing Panel, Denver, CO

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