



## **Teleconference Call #2 with New York Credit Unions**

**March 26, 2020**

Speaker Panel:

**Jon Meade**, OwnersChoice Funding SVP of Mortgage Servicing

**Angela Hoag**, OwnersChoice Funding VP of Loan Acquisitions

**Chris Pajak**, NYCUA Director of Member Relations & HR Consultant

**Kendra Rubin**, NYCUA VP of Governmental Affairs

**RJ Tamburri**, NYCUA Director of Communications & Professional Development

**Bill Bywater**, Chief Operating Officer, UsNet

---

### **Jon Meade:**

- Inundated with phone calls; typically, we average five hardship calls a week; we expect over 850 this week.
- Expanded our hours. Evening and weekends.
- Determining need vs. want.
- If things have stabilized, it goes from a verbal process to a documentation process. The industry will adopt a modification approach. Hope Fannie Mae and Freddie Mac go to a no doc for post-forbearance modification process, but currently a full doc.
- Once process is explained, 50% of members say they don't need it, just curious, or don't need it now. 25% of members have partial capacity to pay mortgage. About 25% need full payment forbearance.
- Hearing very sad stories. We are working on procedures on what the governor is requiring. This is becoming industry standard.

## **Angela Hoag:**

- A bit of reprieve and stabilization. First, the closure of county clerk offices and impact on closing mortgages.
- Received clarity from title insurance underwriters that they will extend gap coverage from closing to recording so lenders are covered for deficiencies. This has allowed the majority of loans to continue through to closing.
- Still concerns in the rural counties that don't have online imaging capability and the ability to receive title searches.
- The verifications of employment have become difficult to obtain, due to businesses deployed to remote workforce. Alternatives have been approved. Allowing email correspondence between lender and HR department.
- Flexibility for desktop appraisals in lieu of interior home inspection.
- While still facing significant impacts, past few days have been positive.

## **Chris Pajak:**

- If you have committed to paying all employees in full during the short term, regardless of the circumstances, then the new paid sick leave requirements outlined under the new state and federal laws do not impact you at this time. However, it will be important to understand these laws as it will become more and more difficult for credit unions to commit to paying their employees in full as the pandemic continues.
- If an employee can work, but chooses not to out of concerns regarding the virus, they would not benefit from these two new laws and do not need to be paid other than utilizing existing paid time off benefits offered by your credit union.
- The federal law does not take effect until April 2, 2020, but is more advantageous to your employees. New York law indicates that if the federal law is more generous, then the state law would not apply
- You cannot force the use of your PTO benefits before an employee can gain access to these benefits.
- Both laws are subject to additional interpretation/guidance upon release of regulations by the U.S. Department of Labor and New York State Department of Labor. The federal law does have an exemption for employers under 50 employees, but until the regulations come out to provide more clarity on this issue, it is advised to assume it applies to you.
- If and when all benefits under these laws have been exhausted by an employee, they may still be eligible for New York's Paid Family Leave (NYPFL) or short-term disability.

## **New York State - Emergency COVID-19 Paid Sick Leave**

<https://paidfamilyleave.ny.gov/covid19>

**Effective:** Immediately

**Summary:** Provides job-protected leave and other benefits ONLY FOR employees subject to mandatory or precautionary orders of quarantine or isolation issued by New York state, department of health, local board of health or any governmental entity with authority to issue such an order due to COVID-19. Different leave provisions apply depending on the size of the employer. This law does not apply, if employee is “deemed asymptomatic” or has not yet been diagnosed with any medical condition, and is physically able to work while under the order through remote access or other means

## **Federal - The Emergency Family and Medical Leave Expansion Act and The Emergency Paid Sick Leave Act**

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>

**Effective:** April 2, 2020 (through 12/31/2020)

**Summary:** Expands the Family Medical and Leave Act (FMLA) requiring employers to provide job-protected paid leave for employees who cannot work due to child care challenges resulting from school closings and for those directly impacted by the COVID-19 virus.

Important Notes:

- Applies to private employers with fewer than 500 employees and certain public employers.
- Employees must be employed for at least 30 calendar days to be eligible.
- Eligible employees to receive 80 hours of paid sick leave for full-time employees (or the equivalent of the average number of hours over two weeks for part time employees).
- Compensation levels vary depending on the reason for the leave.
- Employer is responsible for paying, but will be reimbursed through tax credits.

### **Wage and Hour Issues**

It is also critical to keep wage and hour laws in mind. Remote working arrangements, reduced hours for employees, potential branch closings and exhaustion of paid time off benefits by employees (e.g. vacation, sick and personal time) will all have a significant impact on your pay practices. Compliance with the Fair Labor Standards Act with as it pertains to paying exempt and non-exempt employees will be challenging. For example, a full-time exempt employee who is working, but not able to work full days for variety of reasons, must be paid their full salary, even if they have exhausted all their paid time off. This would not be the case for non-exempt employees, which raises both compliance and employee relations challenges.

# Kendra Rubin:

**DISCLAIMER:** *The information provided below does not, and is not intended to, constitute legal advice; instead, all information, content, and materials are for general informational purposes only.*

## **EMERGENCY DFS REGULATIONS**

### **Purpose:**

- DFS recognizes that EO 202.0 applies only to institutions regulated by the Department.
- Regulation is intended to provide certain financial relief during the pandemic to those who can demonstrate financial hardship as a result of COVID-19, subject to safety and soundness of the CU.
- Regulation outlines standards and procedures that must be followed in CU review of requests for relief.

### **Definitions:**

Defines “regulated institution” as any New York-regulated banking organization, and any New York-regulated mortgage servicer.

### **COVID-19 Relief Program**

Forbearance applications must be made widely available. For the duration of EO 202.9, New York-regulated institutions must make forbearance applications widely available and grant a 90-day forbearance, subject to safety and soundness.

### **Requirements:**

- Residential mortgages only.
  - Property must be in NY.
  - Individual must reside in NY.
  - Individual must demonstrate financial hardship as a result of COVID-19.

- This regulation is NOT applicable to:
  - o any mortgage loan made, insured, or securitized by:

§ any agency or instrumentality of the United States;  
§ any GSE;  
§ any federal home loan bank; or

- o affect the rights and obligations of any lender, issuer, servicer or trustee of such obligations, including servicers for the Government National Mortgage Association.
- Certain fees must be eliminated for certain applicants during the duration of EO 202.9. For the duration of EO 202.9, New York-regulated institutions must eliminate the following fees to any individual who can demonstrate financial hardship from COVID-19, subject to safety and soundness:
  - o ATM fees on ATMs owned or operated by the regulated banking organization;
  - o overdraft fees; and
  - o credit card late payment fees.
- Regulated institutions must communicate within 10 business days from (3/24/2020) how to apply for relief to their members (email, website, mass mail, etc.)
- Regulated institutions must develop qualification criteria:
  - o Regulated institutions must develop the criteria for individuals to qualify for COVID-19 relief.
  - o If regulated institution receives an incomplete application, the regulated institution must promptly communicate with the member what's missing and how to fix.
- Processing applications:
  - o Process and respond within 10 days. Regulated institution must process and respond (this does NOT say relief must be given) to relief requests no later than 10 business days after the Credit union receives complete application.
  - o Develop expedited process. Regulated institutions must develop an expedited processing procedure for individuals who can reasonably establish exigent circumstances and requests expedited processing.
  - o Determinations in writing. Determinations must be communicated to applicant in writing where reasonably feasible and warranted.
    - § Must state whether application was granted:
      - If application was granted – must state if there's anything else that needs to be done to secure relief.
      - If application was denied – must state the reason it was denied and that they can file complaint with DFS.
- DFS Assessment - EO 202.9 modified banking law to provide that it is an “unsafe and unsound business practice” if the regulated institution does not grant a 90-day forbearance on a residential mortgage loan to someone who has applied for the forbearance and demonstrated financial hardship as a result of COVID-19.

- o Criteria contemplated by DFS. In assessing whether regulated institution has engaged in an unsafe and unsound business practice by denying a forbearance, DFS will consider:
  - § adequacy of process established by CU to process forbearance applications;
  - § thoroughness of the application review;
  - § payment history, creditworthiness, and financial resources of the borrower;
  - § application of any state and federal law that would prohibit the forbearance;
  - and
  - § safety and soundness requirements.
- o No DFS criticism. DFS will not criticize in their examinations any prudent and reasonable efforts to grant forbearance.
- o 7-year record retention.
- o Regulation does not apply to any commercial mortgage or any loans not described.

**Senate Coronavirus Relief Bill (as of 3/25/2020)**

- Senate unanimously passed Phase III of the coronavirus relief package March 24.
- The bill is under review by the Association but contains:
  - o language to ensure credit unions are eligible for SBA programs;
  - o temporary CECL relief; and
  - o enhanced ability for credit unions to access NCUA’s CLF.
- The House is expected to consider the legislation on Friday, and the President is expected to sign.

**RJ Tamburri:**

- We understand the state’s credit unions are going above and beyond to help their members and communities right now.
- We shouldn’t sell ourselves short. The financial services industry is one of the backbones that’s keeping this state and country running when a lot of things are shutting down.
- Our message is twofold:
  - o CUs are here for consumers as a safe, sound and stable financial partner.
  - o CUs are well-positioned and have extensive experience serving consumers in times of crisis.

- We want to capture as much of what you're doing to help your members and communities as possible, in the easiest way possible.
- We've created a very simple online form available at NYCUA.org.
  - Click on or hover over the "advocating" tab on the main menu bar.
  - Last option is "CU Coronavirus Survey."
- The survey was created to make it as simple as possible to share your efforts with us.
  - Only asks for name, CU, email address and an open-ended question: Tell us your credit union story.
- The Association will monitor those submissions and use them in our advocacy and PR efforts.
- From a PR and consumer standpoint, there's a real opportunity for the credit union movement to come out of this ahead.
- Your participation is strongly encouraged and appreciated.

## **Bill Bywater:**

- As an update, in the interest of service continuity, we have been working with our CUs to help ensure continued shared branch service at available channels (i.e. Drive-thru, ITM/Kiosks or In Branch).
- In the spirit of collaboration, all UsNet participants that have drive-thru, ITMs or in-branch (still open) capabilities are continuing shared branch service. Albeit there are some full branch closures to service entirely.
- Within the CUSO we have close to 300 locations with 67% of those locations having such capabilities are serving members.
- A strength and benefit of the Shared Branch Network is to provide aid, assistance and continuity for fellow credit unions during times of crisis.
- We understand and continue to operate with the best interest of credit unions and members in mind. It is during these uncertain times that members will feel the value of the Shared Branch Network as we all work together to embrace and embody the spirit of our credit union movement: People Helping People.

- Shared Branching exemplifies Cooperative Banking in a crisis – The Credit Union Difference.
- Additionally, Mr. Mellin indicated to the group that UsNet will do everything it can to provide assistance those interested in joining.