

Joint Resolution for Loan Moratorium Approved

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On April 14, 2020, Governor Wanda Vázquez-Garced signed Joint Resolution Number 26 (“Joint Resolution”) providing that all financial creditors including banking or financial institutions authorized to conduct business in Puerto Rico will provide for a moratorium, or postponement of payments, of certain loan payments upon a client's or debtor's request.

The Joint Resolution defines financial creditors as “*creditors*” under Section 1-201 of the Puerto Rico Commercial Transactions Act, as amended, which “includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver and an executor or administrator of an insolvent debtor's or assignor's estate.” In turn, a client or a debtor is defined as any natural person who has incurred or assumed a mortgage loan, an auto loan, a personal loan, and/or a credit card primarily for personal, family or domestic purposes.

Please note that commercial loans are not included within the scope of the Joint Resolution.

Following is a summary of the Joint Resolution:

Terms

The Moratorium applies to the loan installments that are due and payable for the months of March, April, May, and June, 2020.

Applicability

The Moratorium applies to debtors who were current in their payments as of March 12, 2020 and whose economic conditions have been directly affected by the closure of governmental and private sector operations ordered by Executive Order **OE-2020-023**, dated March 15, 2020. Any debtor eligible under the Joint Resolution may request the Moratorium at any time during the months of March, April, May, and June, 2020. The Moratorium does not apply with respect to any installment payment made by the debtor prior to his or her request to

the creditor.

Requirements and Specifications

- Creditors are required to publish, within 15 days of the approval of the Joint Resolution, an advertisement on a general circulation newspaper and on their social media platforms detailing how clients or debtors should inform them of their intention to participate in the Moratorium.
- Creditors are prohibited from collecting late fees, penalties or interest, and are also prohibited from increasing the interest rates to clients under the Moratorium.
- The maturity date of the corresponding debt shall be extended for a term equal to the length of the Moratorium.
- At a client or debtor's request, the debt shall be distributed among the remaining payments of the loan.

In the case of mortgage loans, the Joint Resolution provides for special rules, such as when the mortgage loans are subject to different guidelines established by Fannie Mae, Freddie Mac, FHA, USDA or VA. Any mortgage loan modification allowed by the Joint Resolution will automatically modify the terms and conditions of the mortgage note and the deed of mortgage. As such, and upon receipt of a Moratorium notice from a mortgagee, the Registrar of the Property shall record such modifications by marginal notation.

OCFI Circular Letter 2020-004

Following the approval of the Joint Resolution, on April 28, 2020 the Office of the Commissioner of Financial Institutions (“OCFI”) published Circular Letter CIF CC-2020-004 (“Circular Letter”), which provides that all financial institutions and servicers must file monthly reports with respect to the Moratorium for each of the months occurring between March, 2020 and February, 2021. Each monthly report should be submitted to the OCFI within the first ten (10) days of the following month, except for the report for the month of March, 2020, which must be filed by May 10, 2020.

The report must be submitted electronically to the OCFI even if no Moratorium is granted. In the event no Moratorium is granted, a report indicating “Nothing to report” must be filed.

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Banking and financial institutions that file the report after the dates indicated in the Circular Letter may be subject to an administrative fine that the OCFI may impose of up to \$5,000.

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