



DISASTER & EMERGENCY RELIEF REFERENCE GUIDE:

2025 LA COUNTY FIRES

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If you have any questions, or require further information on these materials, please do not hesitate to call our office at: (818) 241-0103.

The following quick reference guide was prepared by SW&M to help serve as a general roadmap of the various issues that financial institutions (“FIs”) should consider in navigating the aftermath of the recent devastating fires in Los Angeles County. Please note that this guidance discusses various compliance and employment issues and is not meant to be an exhaustive list. As the fires are still not fully contained, this situation is still very fluid, and FIs must be proactive and responsive to serve their members, customers, and employees impacted by the fires. SW&M is here to support and assist FIs every step of the way; please do not hesitate to reach out for help!

COMPLIANCE

Immediate Financial Relief and General Lending Considerations:

- FIs should work constructively with borrowers affected by the Los Angeles Wildfires. Banking regulators realize the effects of natural disasters on local businesses and individuals are often transitory, and prudent efforts to adjust or alter terms on existing loans in affected areas should not be subject to examiner criticism. In supervising institutions affected by wildfires and straight-line winds, regulators have indicated they will consider the unusual circumstances faced by FIs and recognize that efforts to work with borrowers in communities under stress can be consistent with safe-and-sound banking practices as well as in the public interest. FIs should individually evaluate modifications of existing loans in accordance with Accounting Standards Codification (ASC) Subtopic 310-10, Receivables – Overall, as amended by Accounting Standards Update (ASU) 2022-02, Troubled Debt Restructurings and Vintage Disclosures, to determine whether the modification of the existing loan is a modification to a borrower experiencing financial difficulty. Under both ASC Topic 326, Financial Instruments – Credit Losses, and ASU 2022-02, this evaluation should be based on the facts and circumstances of each borrower and modification.
- Moreover, FIs should consider waiving late fees, overdraft fees, and other penalties for impacted customers.
- Additionally, FIs should consider providing emergency low-interest loans for affected individuals and businesses to help with immediate recovery costs. FIs may receive CRA consideration for community development loans, investments, or services that revitalize or stabilize federally designated disaster areas in their assessment areas or in the states or regions that include their assessment areas. For additional information, FIs should review the [*Interagency Questions and Answers Regarding Community Reinvestment*](#).

Emergency Rules Impacting Mortgage Servicing and Foreclosure:

- FIs servicing mortgages on behalf of others should look to investor guidelines, such as Fannie Mae and Freddie Mac, for offering disaster relief to impacted borrowers. A complete list of the current disaster areas can be found at <https://www.fema.gov/disaster/declarations>.
- Under Fannie Mae's guidelines for single-family mortgages impacted by a disaster:

- Homeowners may request mortgage assistance by contacting their mortgage servicer following a disaster.
- Homeowners affected by a disaster are often eligible to reduce or suspend their mortgage payments for up to 12 months by entering a forbearance plan with their mortgage servicer. During this temporary reduction or pause in payments, homeowners will not incur late fees and foreclosure and other legal proceedings are suspended.
- In instances where contact with the homeowner has not been established, mortgage servicers are authorized to offer a forbearance plan for up to 90 days if the servicer believes the home was affected by a disaster.
- Following a forbearance plan, there are a number of options available to potentially help homeowners resolve the delinquency without paying a lump sum, including Disaster Payment Deferral and Fannie Mae Flex Modification. Fannie Mae has prepared an FAQ to assist mortgage servicers in navigating its disaster relief program which can be found at <https://capitalmarkets.fanniemae.com/media/3061/display>.
- Similarly, Freddie Mac's forbearance program provides homeowners mortgage relief for up to 12 months without incurring late fees or penalties and includes any time the homeowner's property experiences an insurable loss, and also covers instances where their homes or places of employment are located in Presidentially-Declared Major Disaster Areas with individual assistance designations. Foreclosure and other legal proceedings are also suspended while homeowners are on a forbearance plan. Freddie Mac has also prepared an FAQ to assist mortgage servicers in navigating its disaster relief program which can be found at <https://sf.freddie.mac.com/faqs/servicing-disaster-relief-policies-faq>
- The California Legislature has proposed Assembly Bill 238 to aid homeowners impacted by the Los Angeles Wildfires. AB 238 would allow homeowners experiencing financial hardship due to the wildfires to request mortgage forbearance without fees, penalties or interest for up to 180 days, and would allow homeowners to request up to an additional 180 days. It would also prohibit a mortgage servicer from initiating a foreclosure process for homes located in wildfire disaster zones. Mortgage servicers would have to ensure that borrowers understand that the missed payments must be repaid, although they may be paid back over time. This bill is inspired by the CARES Act, which provided mortgage payment forbearance to those experiencing financial hardship during the COVID-19 national emergency.
- Portfolio mortgages of FIs should expect to implement similar disaster relief options to members and customers.

Development of Loan Modification, Deferral and Forbearance Documents:

- Develop loan modification, deferral and forbearance documents so FIs are prepared when their members and customers reach out for assistance.
- SW&M can help prepare and develop these loan documents to comply with applicable agency requirements, legal requirements and client specifications.

Special Considerations for HELOCs:

- Some FIs may be considering whether they should suspend HELOC advances on collateral in fire-impacted areas to mitigate their potential financial exposure, as a potentially precipitous decline in property values may render their HELOC under-secured or entirely unsecured after considering the amount that is owed on a first mortgage on the same property.
- Assess options related to HELOCs, which are subject to strict limitations under the Truth in Lending Act (“TILA”), and its implementing regulation, Regulation Z. Specifically, TILA/Regulation Z limits a creditor's ability to terminate, suspend or reduce HELOCs.
- Per Regulation Z, a creditor can only terminate a HELOC under the following circumstances: (1) the borrower commits fraud or a material misrepresentation in connection with the HELOC; (2) the borrower fails to meet the repayment terms of the HELOC note for any HELOC balance; (3) any action or inaction by the borrower adversely affects the property securing the HELOC or the Credit Union’s rights to the collateral; or (4) federal law dealing with credit extended to Credit Union executives requires that the HELOC should be due on demand under its note terms.
 - Importantly, it appears that FIs may not terminate HELOCs based solely on the fires; there must be some action or inaction from the borrower as described in Regulation Z to justify the termination. For example, if the borrower failed to maintain the required insurance, then the FI would generally be able to terminate the HELOC.
 - FIs should also consider the perception risks of terminating HELOCs. Some members/customers may establish these accounts solely for emergencies, and as such, terminating HELOCs affected by the fires could have a negative reputational impact.
- Regulation Z prevents creditors from suspending or reducing HELOCs unless any of the following relevant conditions exist: (1) the value of the dwelling that secures the HELOC declines significantly below the dwelling's appraised value for purposes of the HELOC; (2) the creditor reasonably believes that the consumer will be unable to fulfill the repayment obligations under the HELOC because of a material change in the consumer's financial circumstances; or (3) the consumer is in default of any material obligation under the HELOC note.
 - If reducing or suspending lines, FIs may consider offering other options, for example, offering advances at a reduced rate. Such an approach will assist members/customers while balancing the FI’s interest of mitigating the risk of potential losses. That said, Regulation Z also has detailed limitations regarding changing the terms of HELOCs, which FIs must consider and follow.
- FIs should also assess an affected member’s/customer’s hazard insurance policy and related coverage, which will help to further mitigate the FI's risk of loss and decrease in value of the collateral. See further discussion below regarding handling insurance proceeds.

- Determining how to handle HELOCs will likely come down to an individualized case-by-case approach, which should include an analysis of the relevant HELOC agreement terms and conditions as well as the members'/customers' personal circumstances.

Auto Loans:

- Stay involved in the insurance process.
- Determine and assess whether affected members and customers have additional insurance coverage, including under GAP policies.
- FIs may see an increase in loan deficiencies and charge-offs. As such, FIs should ensure to review their charge-off policies for compliance with applicable laws and regulations.
- Credit reporting is a heavily litigated area and as such, FIs must ensure their credit reporting is accurate and complete.

Handling Insurance Proceeds / Assisting Members and Customers with Rebuilding:

- Consider obtaining an insurance adjuster's report for an impacted property if the mortgage amount at issue is significant so the FI may, if it needs to, negotiate with the insurance company to ensure that the insurance payout is enough to rebuild the property and fully secure the lender's mortgage.
- Ensure that insurance proceeds are used to rebuild the property. Have members and customers sign a repair affidavit verifying their intent to restore the property to good or marketable condition.
- FI should be listed as an additional insured party with the ability to oversee the process and administer funds control to ensure that the insurance proceeds are used for their intended purpose.
- FIs should consider the degree of oversight they want or may need to have on the rebuilding process to ensure that insurance proceeds are used appropriately. A robust process involves, among other things, requiring confirmation that a licensed and bonded contractor is hired, a realistic rebuilding budget is in place, and that each disbursement is tied to milestones such as lien releases from subcontractors and site inspections to verify progress.
- FIs can release funds in partial payments to maintain control, prevent contractor fraud, and ensure reconstruction stays on schedule. Oversight levels should align with criteria such as the FI's resources, the number of affected properties, the size of claims, and investor servicing requirements, with thresholds determining whether borrowers or the FI control the funds. Given potential delays in insurance claims and risks like incomplete construction, FIs should evaluate their internal capacity for funds control, considering external funds control services if needed, while also reviewing servicing guidelines to determine exceptions.
- Proactively managing litigation and reputational risks from contractor issues or cost overruns is critical to maintaining borrower trust and ensuring successful rebuilding. There are litigation and reputational risks if there are problems in the rebuilding

process, such as failure to complete the construction because of an incompetent contractor, costs of building materials and labor, among others.

- Further, one can expect additional laws passed by California's state legislature that require mortgage servicers to provide long-term forbearances if borrowers are unable to obtain plans and permits within the 6-12 month forbearance period on a mortgage, let alone complete construction within this time period. During a legislatively imposed forbearance period, the mortgage servicer will not only not receive mortgage payments but may need to advance for property taxes and insurance as well.

Insurance Coverage:

- FIs should review their insurance policies to determine if there is coverage in situations where an affected borrower has not maintained fire insurance on the property or where the property is underinsured.
 - For example, we reviewed an exemplar Property and Business Liability Policy, which had a section for "Real Estate Lending Coverages." One of the coverages addressed "loss to mortgage holder's interest" for a "lack of insufficiency of insurance" and provided coverage for errors by the credit union or its representative in following its customary procedures in requiring, procuring or maintaining insurance payable to the credit union as mortgage holder. This type of coverage should be looked at as a potential "gap filler" in the event the borrower has not maintained fire insurance on the property or where the property is underinsured. There are a number of limits and conditions so FIs should review their respective policies as well as the declarations page for single loss and annual aggregate loss limits. FIs should also pay attention to HELOCs on this coverage as it may not cover extensions of credit after the date of a loss.

Property Taxes:

- LA County has a process in place to reduce property taxes and receive property tax relief during a disaster. See <https://res.cloudinary.com/los-angeles-county-assessor/image/upload/v1736540235/Factsheet/Relief for Properties Impacted By A Disaster.pdf>.
- As part of financial hardship accommodations, like forbearance agreements, FIs should inform their members and customers about potential property tax relief through the above-referenced process.
- FIs should determine the potential effects on escrow accounts, including whether necessary adjustments will be needed during the annual escrow analysis.
- FIs must ensure annual escrow account statements are accurate and should plan accordingly.

Impact Assessment:

- FIs should assess their risk exposure to the fires by proactively identifying in their mortgage portfolio damaged or destroyed by fire, as well as members/customers that reside in areas impacted by the fires. One resource to identify impacted areas is available through the LA county assessor at <https://recovery.lacounty.gov/>.
- In communications with impacted members/customers and employees, FIs should reference the above resource as it also provides information about local assistance and disaster recovery resources.
- FIs should be proactive. People may not be calling in now to inquire about financial assistance and resources available with the FI because the fires are still ongoing and they may be dealing with immediate needs, like securing shelter for their families.

Additional Considerations:

- Review Current Expected Credit Losses (“CECL”) methodologies to make sure properly reserving based on quantitative factors.
- FIs that have a high concentration of loans in impacted areas should evaluate any balance sheet impacts and reporting obligations.
- Requests for short sales may increase as a result of the fires. As such, FIs with a high concentration of loans in the affected areas should review their short sale policies and procedures to ensure they are prepared to address an influx of short sales.
- FIs are required to obtain accurate appraisals. As such, loans may be affected since appraisals will be hard to determine in the affected areas.
- FIs should check their construction loan pipeline to determine if builders will have the personnel and materials to complete new and outstanding projects.

EMPLOYMENT

The current wildfires in Los Angeles also impact employers with employees in affected areas. While the fire conditions are ever-changing, there are many California employment laws protecting employees in these situations. Beyond this, as the California legislature reconvenes, we expect new bills and emergency legislation directed at the wildfire emergency and employers should continue to monitor the weekly if not daily government response to the emergency. Our clients in the Southern California area should be aware of the following laws and regulations (which are not exhaustive) protecting employees in these unprecedented conditions.

California Paid Sick Leave (under the Healthy Workplaces, Healthy Families Act):

- As of January 1, 2024, California requires employers to provide at least 40 hours or five days of paid sick leave (PSL) annually. During wildfire emergencies, employees may use accrued paid sick leave for the diagnosis, care, or treatment of an existing health condition, or for preventive care for themselves or a qualifying family member.

- Employers in the affected areas should also know that the City of Los Angeles and the County of Los Angeles (impacting unincorporated areas of the County), and those in the City of Santa Monica are subject to local ordinances which may provide greater benefits than under the California PSL requirement.
- Employers in the affected areas should be ready to respond appropriately to time-off requests that fall under both the state and local ordinance leave rights. Similarly, employers must carefully consider leave of absence and job accommodation requests by impacted employees under, among things, the federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA).

Worker Safety and Cal/OSHA Wildfire Regulations:

- The California Division of Occupational Safety and Health (Cal/OSHA) mandates that employers protect employees from workplace hazards, including those arising during natural disasters. For example, Cal/OSHA regulation, Section 5141.1, establishes requirements for safeguarding employees from the health risks of wildfire smoke by mandating air quality monitoring and the implementation of protective measures when conditions become hazardous, particularly when the Air Quality Index (AQI) for PM2.5, the particulate matter in wildfire smoke, reaches 151 or higher.
- The requirements under Cal/OSHA are complex and vary for employees who work outdoors as compared to indoor workers. Employers are urged to monitor local and state advisories regarding the air quality in the impacted areas. Remember, your employees need not be in the immediate evacuation areas to be subject to the air quality standards.

School Closure and Childcare Leave:

- To be sure, one of the most devastating impacts of the wildfires has been the impact on schools. According to news reports, approximately 600,000 students in and around Los Angeles have had their schooling disrupted by the historic fires. Under current California Labor Code, employers with more than 25 employees must offer employees up to 40 hours of unpaid time away from work per year due to a qualifying “childcare provider or school emergency,” which can include closure due to natural disaster such as fire. Employers with impacted employees should carefully review and consider leave requests by employees due to school and other childcare closure requests.
- *SW&M Note:* California has a myriad of laws protecting employee leave rights including bereavement leave and expanded victims of crime leave, among many others, that could very well be the result of the fires. Given the widespread impact of the current fire crisis, employers should be diligent and mindful in responding to employee requests for assistance.

Emergency Services Leave:

- The California Labor Code also requires certain employers to provide time off, with guaranteed reinstatement rights, to volunteer firefighters, reserve peace officers, and emergency rescue personnel, as well as those who are called to military service in order to perform emergency duty as volunteer firefighters, reserve police officers, or emergency rescue personnel.

Additional Considerations:

- 401(k) Hardship Withdrawals: Review current plan documents to be prepared for hardship withdrawal request.
- PTO “Sharing” Programs: Many employers offer employees the ability to share or donate PTO to fellow employees suffering a hardship, including as a result of a natural disaster. While such leave sharing programs are generally permissible, they are subject to stringent IRS rules. Failure to comply with IRS rules could lead to negative tax impacts to the donor and donee.
- California Labor Code § 2810.5 (“Wage Theft Notice”): As of 1/1/2024, employers must provide nonexempt new hires information related to relevant emergency proclamations on the Wage Theft Notice. Accordingly, employers in the areas covered by the state and federal disaster proclamation, will need to provide a Wage Theft Notice to any nonexempt new hires who start within thirty days after January 7, 2025, that discloses the existence of the wildfire emergency proclamation and that the emergency may affect their health and safety during their employment.

As always, should you have any questions or would like assistance in preparing or responding to employee requests during these extraordinary times, please contact our SW&M employment law team.