House Interim Committee on Business and Labor
May 27, 2020
Comments by the Northwest Credit Union Association

The Northwest Credit Union Association represents the 58 state and federally chartered credit unions in Oregon, with two million Oregonians as members. Credit unions are not-for-profit financial cooperatives, organized to meet the needs of their members. Community service, financial education outreach, and philanthropy are in the credit union "DNA," and are evidenced in virtually every credit union branch and office. Credit unions in Oregon protect more than $25 billion in assets – the life savings of their two million members who live and work in communities large and small, urban and rural.

- ***Oregon credit unions are working hard to implement financial solutions for members.***
- ***Credit unions have been providing assistance to members during the COVID crisis in the form of skip payments, forbearances, loan modifications, credit card payment deferrals, zero interest loans other accommodations on existing loans, as well as providing new emergency loans. In addition, Oregon credit unions have been working to assist small business by providing Small Business Administration Paycheck Protection Program loans. These loans allow businesses experiencing closure or slowdowns, to continue paying their employees.***
- ***NWCUA supports policy that will allow flexibility for credit unions to do what they do best – meet the needs of their members on an individual basis.***
- ***Credit unions are not-for profit community lenders who exhaust every possible option before foreclosing. In 2019, Oregon's 54 credit unions had a total of 9 completed foreclosures and in 2018 Oregon credit unions had 7 foreclosures.***

Oregon Credit Unions Responding to COVID Crisis

Credit unions have a well-established history of service to members, especially following disasters, emergencies, and disruptions. They provide direct assistance to their members in the form of low-and no-interest loans, payment forbearance, fee waivers, payroll advances, loan modifications, and other services that help meet the needs of their members in crisis.

No portion of our society will be spared from the impact of the COVID-19 pandemic. It is a humanitarian crisis on a global scale, that will put stress on our health care, government, distribution, small business, and educational structures.

America's credit unions serve those on the front lines-- members who are working to keep others safe during the pandemic. Several Oregon credit unions have a primary field of membership that includes schools, healthcare workers, police, fire, transportation, utilities, and government employees.

Federal Mortgage Relief

The CARES Act provided for a moratorium on foreclosures for any federally backed mortgage loan. The agencies have extended this moratorium through June 30. The CARES Act also established a right for any borrower in a federally backed mortgage loan to request forbearance for up to 180 days, and an extension for up to an additional 180 days. This provides some temporary relief, but for some borrowers it can also create further stress.

Forbearance is a temporary suspension of monthly mortgage payments. Federally backed mortgages require all suspended payments along with the current month's payment are due in full at the end of the forbearance term. The vast majority of borrowers in owner-occupied homes, have federally backed mortgages.

There are a lot of misconceptions about how forbearance works. Many Americans believe a forbearance is simply tacking missed payments onto the end of their loan. This is a dangerous misconception and at present, financial institutions are bearing the brunt of responsibility for educating consumers. Local, state, and federal agencies are encouraging lenders to do forbearances but there is no requirement on education surrounding who should and should not ask for them. A recent CFPB study shows that more than half of respondents polled wouldn't be able to stay current on their obligations if they went without a paycheck for up to two months.

Many borrowers would prefer to establish an arrangement for handling the deferred payments at the time they receive relief from the lender. Many credit unions holding their own loans have been willing to enter into payment deferral or modification agreements, allowing the borrowers to extend the term of the loan or re-amortize payments at the end of the deferral, or to otherwise adjust the loan to address the skipped payments.

Credit Union Examples – Lending Today

I am pleased to share some examples of mortgage assistance that Oregon credit unions are providing to your constituents at a time when they most need it.

- Unitus Community Credit Union has assisted members by processing 99 home mortgage forbearance requests on $24.1 million in loan balances. Unitus has been working round the clock to support members the past 8 weeks. Outside of the first mortgage servicing, they have helped members with over 4,700 temporary payment deferrals what is now $102 million in non-residential mortgage loans such as auto loans, personal loans, credit cards and similar loan programs. Also on the credit side, they have funded 45 Covid-19 emergency paycheck replacement loans for $139,000. They reported, "even if our loan was not housing related, our actions helped members preserve cash for paying rent, mortgage payments and related household bills."
- Oregon Community Credit Union in Eugene had processed 77 forbearance requests for $23.7 million in balances. As noted earlier in this testimony, there are several challenges around the education process for forbearance and loan modification issues with residential mortgages.
- This crisis has had a significant impact on OnPoint Community Credit Unions nearly 400,000 members in Oregon and Southwest Washington, and they have implemented a number of

programs and actions to provide additional support for our membership through this challenging time. Thus far, 880 members are taking OnPoint up on the offer for mortgage forbearance, meaning up to $1.26 million is kept by members when they may need those funds for other emergency needs.

Recommendations

We appreciate the opportunity to provide feedback to the Committee on a possible additional foreclosure moratorium. If not crafted, Legislation on this issue could have a significant impact on an Oregon credit union's ability to continue what we do best – serve our members based on their individual needs. Without regular loan payments coming in from members that can afford them, credit unions will be limited in the number of other loans they can make, including emergency loans and small business loans.

1. Avoid mandating specific forms of loan relief.

In this time of great need, we believe the legislature should heed the direction of Hippocrates in his aptly titled work "Of the Epidemics": First, do no harm. To the extent possible, the state should empower credit unions and other lenders to help borrowers creatively, not handcuff them to specific "one-size-fits-all" solutions. The legislature should not prescribe specific forms of loan relief or required changes in loan terms. The first couple of months of the crisis have provided some valuable lessons that can guide the legislature in its actions.

First, different borrowers have different circumstances and different needs. An office worker with steady but reduced income does not need or want the same type of relief as a restaurant worker whose job has disappeared. Lenders must be free to tailor solutions to their borrowers' specific needs.

Second, no one can confidently predict circumstances over the next couple of months, let alone the next six months to a year. Again, lenders should have flexibility to address changing circumstances. The legislature is not in a position to effectively dictate specific forms of relief that will be useful for everyone.

Also, differences among lenders affect the manner in which they help their borrowers . Insured financial institutions are subject to minimum capital requirements, balance sheet management requirements, and a variety of other requirements and restrictions that do not affect non-financial institution lenders. On the other hand, financial institutions may have greater access to sources of liquidity than such other lenders. And federal law prevents the state from dictating or restricting terms of loans made by federally chartered institutions.

Finally, some forms of relief (such as prohibiting late fees or default rates of interest) may be subject to challenge under the federal and state constitutions, based on impairment of contractual obligations or taking of property without compensation. Even if the state ultimately prevailed on any challenges to such actions, the uncertainty during the pendency of such challenges would be detrimental to everyone.

2. Empower lenders to act creatively.

For financial institutions subject to federal regulation, there is only so much that the state can do to free lenders to creatively assist borrowers. State regulators should be encouraged to continue their stance that reasonable attempts to help borrowers will not be subject to unreasonable regulatory scrutiny. To the extent that the state can offer incentives for borrower assistance (in the form of grants, low-cost loans, or other capital assistance), it would help add more flexibility for credit unions assisting borrowers. And finally, the state should encourage our federal representatives and the federal regulators to minimize regulatory interference and maximize flexibility.

3. Any limitation on remedies should be short-term and narrowly tailored.

Foreclosures have been stalled during the pandemic for a variety of reasons. First, lenders are simply not pursuing them for economic and other reasons. Second, judicial foreclosures are effectively stalled by lack of court action or availability. Finally, even non-judicial foreclosures are not a desired remedy when sale options are limited and borrower circumstances may be pandemic-related.

We understand that the legislature may desire to provide for a more formalized window in which foreclosures are not conducted. Because of the uncertainty of circumstances, any such remedy should be for a short duration and should be limited to borrowers that can demonstrate they have been affected by the pandemic. Foreclosure for pre-pandemic defaults or for defaults other than monetary defaults (i.e. destruction of the property, illegal or hazardous use, etc.) should be permitted.

Since Governor Brown's Stay Home Save Lives order, the state's credit unions have provided hundreds of thousands of their members relief from mortgages, auto loans, credit card payments and business loans. Credit union members are coming to their financial institution for relief and as partners in our community, we are able to help alleviate some of their financial burden.

Submitted by:

Hal Scoggins
Outside Counsel, Northwest Credit Union Association
Farleigh Wada Witt
hscoggins@fwwlaw.com

Pam Leavitt
Northwest Credit Union Association
Leavitt.nwadvocacy@gmail.com