

Office of Regulatory Activities

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Handbook: Compliance Activities
Subject: Homeownership Counseling Requirements

Section: 500
TB 18

February 16, 1989

Homeownership Counseling Requirements

RESCINDED

Summary: The Housing and Community Development Act of 1987 requires creditors to notify delinquent homeowners of the availability of homeownership counseling. This bulletin provides basic information about the law and its requirements.

For Further Information Contact:

The FHLB District in which you are located or the Compliance Programs Division of the Office of Regulatory Activities, Washington, D.C.

Thrift Bulletin 18

The Housing and Community Development Act of 1987 requires creditors to notify eligible homeowners with delinquent home loans of the availability of any homeownership counseling it provides as well as the availability of such counseling provided by nonprofit organizations approved by the Department of Housing and Urban Development (HUD) or the Administrator of Veterans Affairs, as appropriate. The law does not appear to require that creditors themselves provide homeownership counseling. Although the statute delegated rule-writing authority to HUD, that agency has yet to either issue or propose any regulations to implement the law. Nonetheless, HUD has informed the Office of Regulatory

Activities that the statutory provisions are in effect and creditors should comply with the requirements.

More specifically, a "creditor," as defined by the statute, is any entity servicing a loan on behalf of itself or another entity. The creditor notification requirements regarding homeownership counseling for eligible homeowners with delinquent home loans may apply to a creditor whether or not it provides any such counseling. Informal discussions with HUD legal staff indicate that this provision probably applies to all home loans as defined by the statute, not just those that may be VA or FHA-insured or guaranteed. Neither the statute nor its legislative history provide any insight as to the definition of "delinquent," when notification to an eligible homeowner must be made by a creditor or the format of that notification.

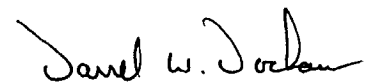
HUD intends to issue proposed regulations for comment later this

spring which should offer some further guidance as to the proper implementation of the statute by creditors. Until that time, institutions should be aware of these requirements, consult with legal counsel, and institute procedures to assure compliance with the law. Creditors should also be aware that noncompliance may negatively impact foreclosure proceedings.

A copy of the pertinent provision of the law is attached for your information. Institutions can obtain free copies of HUD's listing of approved counseling agencies by calling HUD at (202) 755-6664 or writing to:

U.S. Department of Housing and
Urban Development
Office of Single Family Housing
Room 9184
451 Seventh Street, N.W.
Washington, D.C. 20410

Attachment



— Darrel W. Dochow, Executive Director

Housing and Community Development Act of 1987

Title I, Subtitle B, Section 170

SEC. 170. COUNSELING TO TENANTS AND HOMEOWNERS.

(a) **COUNSELING SERVICES.**—Section 106(a)(3) of the Housing and Urban Development Act of 1968 is amended in the first sentence by striking all that follows the semicolon and inserting the following: “except that for fiscal years 1988 and 1989 there are authorized to be appropriated \$3,651,000 and \$3,811,644, respectively, for such purposes.”.

(b) **EMERGENCY HOMEOWNERSHIP COUNSELING.**—Section 106 of the Housing and Urban Development Act of 1968 is amended by inserting at the end the following new subsection:

(c) **GRANTS FOR HOMEOWNERSHIP COUNSELING ORGANIZATIONS.**—

“(1) **IN GENERAL.**—The Secretary of Housing and Urban Development may make grants—

“(A) to nonprofit organizations experienced in the provision of homeownership counseling to enable the organizations to provide homeownership counseling to eligible homeowners; and

“(B) to assist in the establishment of nonprofit homeownership counseling organizations.

“(2) **PROGRAM REQUIREMENTS.**—

“(A) Applications for grants under this subsection shall be submitted in the form, and in accordance with the procedures, that the Secretary requires.

“(B) The homeownership counseling organizations receiving assistance under this subsection shall use the assistance only to provide homeownership counseling to eligible homeowners.

“(C) The homeownership counseling provided by homeownership counseling organizations receiving assistance under this subsection shall include counseling with respect to—

“(i) financial management;

“(ii) available community resources, including public assistance programs, mortgage assistance programs, home repair assistance programs, utility assistance programs, food programs, and social services; and

“(iii) employment training and placement.

“(3) **AVAILABILITY OF HOMEOWNERSHIP COUNSELING.**—The Secretary shall take any action that is necessary—

“(A) to ensure the availability throughout the United States of homeownership counseling from homeownership counseling organizations receiving assistance under this subsection, with priority to areas that—

“(i) are experiencing high rates of home foreclosure and any other indicators of homeowner distress determined by the Secretary to be appropriate; and

“(ii) are not already adequately served by homeownership counseling organizations; and

“(B) to inform the public of the availability of the homeownership counseling.

“(4) **ELIGIBILITY FOR COUNSELING.**—A homeowner shall be eligible for homeownership counseling under this subsection if—

“(A) the home loan is secured by property that is the principal residence (as defined by the Secretary) of the homeowner;

“(B) the home loan is not assisted under title V of the Housing Act of 1949; and

“(C) the homeowner is, or is expected to be, unable to make payments, correct a home loan delinquency within a reasonable time, or resume full home loan payments due to a reduction in the income of the homeowner because of—

Housing and Community Development Act of 1987

Title I, Subtitle B, Section 170

(continued)

"(i) an involuntary loss of, or reduction in, the employment of the homeowner, the self-employment of the homeowner, or income from the pursuit of the occupation of the homeowner; or

"(ii) any similar loss or reduction experienced by any person who contributes to the income of the homeowner.

"(5) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING REQUIREMENT.—*The creditor of a delinquent home loan shall notify an eligible homeowner of the availability of any homeownership counseling offered by the creditor. As a supplement to the counseling provided by the creditor, the creditor shall notify the homeowner of the availability of 1 of the following:*

"(A) Homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling.

"(B) A list of the nonprofit organizations, approved by the Secretary and experienced in the provision of homeownership counseling, that can be obtained by calling a toll-free telephone number at the Department of Housing and Urban Development.

"(C) Homeownership counseling provided by the Administrator of Veterans' Affairs for loans insured or guaranteed under chapter 37 of title 38, United States Code.

"(6) DEFINITIONS.—*For purposes of this subsection:*

"(A) The term 'creditor' means a person or entity that is servicing a home loan on behalf of itself or another person or entity.

"(B) The term 'eligible homeowner' means a homeowner eligible for counseling under paragraph (4).

"(C) The term 'home loan' means a loan secured by a mortgage or lien on residential property.

"(D) The term 'homeowner' means a person who is obligated under a home loan.

"(E) The term 'residential property' means a 1-family residence, including a 1-family unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

"(7) REGULATIONS.—*The Secretary shall issue any regulations that are necessary to carry out this subsection.*

"(8) AUTHORIZATION OF APPROPRIATIONS.—*There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of the fiscal years 1988 and 1989. Any amount appropriated under this subsection shall remain available until expended.*

"(9) TERMINATION.—*The provisions of this subsection shall not be effective after September 30, 1989."*