

No. B058

SUBJECT: HUD's Delinquent Homeowner Notice Requirements

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INTRODUCTION

This release applies to all credit unions, state and federal, that hold residential mortgage loans.

EXECUTIVE SUMMARY

The Department of Housing and Urban Development (HUD) requires credit unions to send two notices to certain mortgagors who are delinquent or in default on their loans. One advises delinquent borrowers of the availability of homeownership counseling. The other advises homeowners in default about the foreclosure rights of servicemembers and their dependents under the Servicemembers Civil Relief Act (SCRA).

HOMEOWNERSHIP COUNSELING NOTICE

HUD-approved agencies in each state provide homeownership counseling, giving information, advice and assistance to help delinquent homeowners become current in their mortgage payments. HUD requires that credit unions notify homeowners who are delinquent in their mortgage payments about these counseling services. The legal requirement can be found in HUD's statutes at *12 U.S.C. §1701x(c)(5)(A)*.

Scope

The notice requirement applies to any loan the credit union services, other than a Farmers Home Administration or VA insured or guaranteed loan, if:

- (1) The loan is secured by a one family dwelling (including a condominium, cooperative, or mobile home secured by a mortgage) that is the principal residence of the homeowner, and
- (2) The homeowner, or another person who contributes income, is or is expected to be, unable to make payments to correct a home loan delinquency within a reasonable time because of a loss or reduction in the homeowner's income from employment or other occupational pursuits.

HUD suggests that, for simplification, lenders send the notice out to all delinquent mortgagors.

For secondary market loans, the responsibility for compliance is on the servicer.

Timing

HUD requires the notice to be sent to the borrower within 45 days of delinquency, at the latest. However, its guidelines suggest the notice be given "at the earliest point that a creditor, as part of normal business practice, communicates the fact of the delinquent status of the homeowner's account to the homeowner." HUD wants the notice to be sent quickly so the homeowner can benefit from the counseling and prevent foreclosure.

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The notice must be sent each time a homeowner becomes delinquent. The notice must inform the homeowner of:

- (1) the availability of any "homeownership counseling" offered by the credit union (if applicable), and

- (2) the availability of counseling by HUD-approved organizations or, in the case of VA loans, counseling provided by the Department of Veterans' Affairs. The notice must either provide a list of approved counseling agencies, or HUD's toll-free number for accessing the list.

Mortgagees choosing to use the HUD-provided format of the "Notification to Homeowners of Availability of Housing Counseling Services" may [click here for a list](#) of HUD forms, then click on "HUD-9", and then scroll down to HUD-9692.

SERVICEMEMBERS CIVIL RELIEF ACT NOTICE

In addition to the delinquency notice, HUD also requires mortgage lenders to notify all homeowners who are in default about the foreclosure rights of servicemembers and their dependents under the SCRA.

Mortgagees must send HUD's SCRA Notice Disclosure (form [HUD-92070](#)) for the required notice of servicemember rights to all borrowers in default on a residential mortgage and must include the toll-free [Military OneSource](#) number to call if servicemembers or their dependents require further assistance.

Federal statutes directed HUD to revise its homeownership counseling notice to include information about the foreclosure rights of servicemembers and their dependents under the SCRA. Since the notice requirement amends HUD's counseling notification provisions rather than the SCRA, all homeowners in default must receive the notice.

All home mortgage loans, including conventional mortgages and mortgages insured by HUD are subject to the notification requirement. The notice must:

- Be sent to all homeowners who are in default on a residential mortgage (HUD's counseling notification requirement only applies to a loan that is secured by the principal residence of the homeowner);
- Include the toll-free military one-source number to call if servicemembers or their dependents require further assistance [1(800) 342-9647]; and
- Be made within 45 days from the date a missed payment was due, unless the homeowner pays the overdue amount before the expiration of the 45-day period.

For more information about the SCRA, see The League's *ii Release No. 0072*.



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Legal Affairs Department

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