DEED IN LIEU OF FORECLOSURE OPTION

The Deed in Lieu (DIL) of Foreclosure Option allows a Borrower to voluntarily sign the house back over to the Servicer. Ref: Mortgagee Letters 2000-05, 2002-13 and 2013-23.

FACTS

- Mortgage ***must*** be at least 31 days delinquent at the time the DIL Warranty Special Deed is executed.
- All Borrowers named on the Note must execute the DIL Warranty Special Deed.
- Owner-Occupant Borrower is eligible to receive $2,000 Incentive Payment.
- The $2,000 Incentive Payment will not be paid to the Borrower until they have vacated the property.
- Borrower's Incentive Payment is to be applied to any junior lien placed on the mortgage property.
- Borrower must certify compliance with DIL stipulations by signing a "written" agreement of property conditions.
- Servicer may determine that a "current" Borrower is eligible for the DIL of Foreclosure Option.
- Servicers must not report DIL transactions to Credit Bureaus as foreclosures.
- **Under no circumstance** should the Borrower be encouraged to default on their mortgage for the purpose of qualifying for the DIL Option.
- DIL must be completed or foreclosure initiated within six months of the date of default, unless the Servicer qualified for an Extension of Time by first trying a different Loss Mitigation Option or an Extension of Time was approved by HUD prior to the expiration of the time requirement.
- If the DIL follows a failed Special Forbearance Agreement or the Preforeclosure Sale Program, then the DIL must be completed or foreclosure initiated within 90 days of the failure date.

ELIGIBILITY

Eligible Properties for Streamlined DIL – Principal residences, second homes, and investment properties are eligible for the DIL Disposition Option under the Streamlined DIL process, provided that all Borrowers meet all DIL requirements. Such properties may be vacant, but cannot be condemned.

Streamlined Eligibility Requirements for DIL – Servicer may approve a Borrower for a Streamlined DIL without verifying hardship or obtaining a complete Borrower workout packet if each of the conditions below exists:

For Non-Owner Occupant Borrower:

- Borrower is 90 days or more delinquent on their FHA-insured loan as of the date of the Servicer's review; and
- Each Borrower has a credit score of 620 or below.

For Owner-Occupant Borrower:

- Borrower is 90 days or more delinquent on their FHA-insured loan as of the date of the Servicer's review;
- Each Borrower has a credit score of 620 or below; and
- Except for Servicemembers with Permanent Change of Station (PCS) Orders that meet the requirements for a Streamlined PFS, Owner-Occupant Borrower must have been reviewed for HUD's Loss Mitigation Home Retention Options. Servicer may only offer a Streamlined DIL to Owner-Occupant Borrower when one or more of the following conditions have also been met:
  1. The Borrower has defaulted on a Trial Payment Plan within the last six months;
  2. The Borrower has defaulted on an FHA-HAMP or standard (rate-and-term) Loan Modification within the last two years;
  3. The Borrower has been deemed ineligible for a permanent Home Retention Option (Standard Modification, FHA-HAMP, or Formal Forbearance) or Special Forbearance, pursuant to ML 2013-32;
  4. The Borrower received a Special Forbearance but, did not otherwise qualify for a permanent Home Retention Option by the end of the Forbearance period;
  5. The Borrower has been deemed eligible for and offered a Loss Mitigation Home Retention Option. However, the Borrower has a credit score below 580 and provides written documentation that he/she chooses not to accept the Loss Mitigation Home Retention Option offered by the Servicer.

For Servicemembers with PCS Orders: Servicers may also approve a Servicemember for a Streamlined DIL without verifying hardship or obtaining a complete Borrower workout packet if the following conditions exist:

- The Servicemember has PCS Orders to relocate to a duty station at least 50 miles away from his/her existing residence and provides the Servicer with a copy of such Orders; and
- The Servicemember submits an affidavit certifying that:
  1. the property securing the FHA-insured mortgage is or was his/her principal residence when the PCS orders were issued; and
  2. new permanent housing has been or will be obtained as a result of the Orders.

Deed in Lieu Agreement

- Borrower does not own any other FHA-insured mortgages and/or Secretary-held mortgage by HUD.
- Agreed upon transfer date of property to Servicer is to be stated within the Agreement.
- Servicer is to provide notification to the Borrower that there may be income tax consequences as a result of the DIL of Foreclosure.
- Servicer is to provide acknowledgment that Borrower who complies with all of the requirements of the Agreement shall not be pursued for deficiency judgments.
- Borrower agrees to provide a statement describing the general physical condition in which the property will be conveyed.
- Borrower will convey property vacant and free of personal property unless HUD has approved an occupied conveyance.
- Borrower is to provide a written itemization of the keys, built-in fixtures and equipment which will be delivered to the Servicer on or before the transfer date.
- Borrower agrees to provide evidence that certain utilities, assessments, and homeowner's association dues are paid in full to the transfer date unless otherwise agreed to by the parties.
- The dollar amount of Borrower Incentive is to be stated within the DIL Agreement and it is not to exceed $2,000.

Disclosure Requirements for all DIL Transactions – Before being approved for a DIL, the Borrower must be notified in writing of the following:

- The mortgage must be in default on the date the DIL transaction closes, pursuant to Section 204 of the National Housing Act (12 U.S.C. 1710 (1)D);
- DIL transactions are generally reported to credit bureaus, and will likely affect the Borrower's ability to obtain another mortgage and other types of credit;
- If the Borrower is a Servicemember, it is recommended that the Borrower obtain guidance from his/her employer regarding the DIL's impact on his/her security clearance and employment; and
- DIL transactions are generally reported to the Credit Alert Interactive Voice Response System (CAIVRS) which may result in his/her inability to obtain government financing or affect other government benefits for a certain period of time.

If you have any question you may contact NSC at:
National Servicing Center
http://portal.hud.gov/hudportal/HUD?src=/program_offices/housingsfh/nsc/nschome
NSC's Call Center - 1-877-622-8525
Frequently Asked Questions:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/faqnsctc