

DELINQUENT AND DEFAULT COUNSELING

Homeowners behind in their mortgage payments, one or more months, must be provided with a list of HUD-approved housing counseling agencies in their state by the bank, mortgagee or mortgage servicing organization. This action is required by Section 169 of the Housing and Community Development Act of 1987.

There are no penalties in the Act. However, the homeowner may request the Court to stop the foreclosure proceedings until such list is provided and sufficient time is allowed for counseling. If foreclosure has occurred, and the list of HUD-approved housing counseling agencies was not provided, the homeowner can request the Court for reimbursement for all losses sustained on account of the foreclosure by the bank, mortgagee or mortgage servicing organization.

The intent of the Act is to provide homeowners with the opportunity of contacting HUD-approved housing counseling agencies, obtain counseling advice and assistance and become current in their monthly mortgage payments.

HUD-approved housing counseling agencies provide a screening interview for the delinquent or defaulting homeowner to determine and identify the problems and solutions. This is immediately followed by an intake of the family background, information on the family's earnings, income from all sources, assets, debts (including credit card balances past due), and monthly installment payments. The homeowner will provide information on the delinquency or default, and on family housing and living costs.

The agency or homeowner will contact each creditor and arrange a repayment plan, thereby reducing the monthly payments and providing more funds for the monthly mortgage payment and towards reducing the delinquency or default. Additionally, food banks will be tapped to reduce the family's food costs. The utility companies will be contacted by the agency for credits or grants towards reducing unpaid utility bills.

All factors that affect the monthly mortgage payment will be treated by the HUD-approved housing counseling agency. The agency will immediately make referrals to local organizations for health and child care, marital guidance, and job training and placement.

The agency will confer with the bank, mortgagee or mortgage servicing organization on a repayment plan to bring the mortgage current. If this

cannot be arranged, the agency will contact the HUD Field Office and confer on the proposed repayment plan and on the assignment program. In the meantime, the agency is providing budgeting and money management for the homeowner and family.

Most agencies provide delinquent and default counseling. Some agencies specialize in tenant counseling, shared housing counseling, or in Home Equity Conversion Mortgage (HECM) counseling. Regardless, agencies are advocates for all the parties: HUD, the bank or mortgagee or mortgage servicing organization and the homeowner. Although the agency represents the homeowner, it is responsible to the HUD Field Office that originally approved the agency and recertifies it annually. The agency needs to know HUD programs (including mortgage servicing processing requirements of banks, mortgagees and mortgage servicing organizations and understand each of their goals and constraints.

In the past, agencies used HUD forms to verify deposits, employment and other matters. Currently, such forms are generally not used. Today, agencies request the homeowners to provide all the information needed. Employment is verified by payroll stubs and other documents, and the homeowner request the employer to contact the agency. Many agencies have contracts with the credit reporting firms for obtaining the necessary credit reports.

Some agencies will accept additional clients if faced with a tremendous workload. Other agencies will not accept clients if they are located outside or beyond the agency's counseling areas. Some will limit their counseling to areas within specified zip codes, within city neighborhoods or to city-wide areas. Other agencies cover several counties, and some will establish satellite offices throughout the state and in the adjoining states. Under Section 577 of the Cranston-Gonzalez National Affordable Housing Act (42 USC 12701), dated November 28, 1990, agencies are required to accept all delinquent homeowners under HUD programs, conventional mortgage programs, and city, state and county mortgage programs.

Agencies will assist homeowners and the HUD Field Office during the delinquency and default periods, during the pre-assignment, assignment and post-assignment periods. Delinquent and default counseling are sometimes effective within two or three months. In many instances, six months or more of counseling may be needed to bring the client current.