

RESCINDED

Outdated – See OCC 2020-11

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Homeownership Counseling: Notice of Statutory Requirement

As a result of amendments to the National Housing Act that became effective November 26, 2001, all creditors must provide notice of the availability of homeownership counseling to certain first-time mortgage loan applicants and to certain homeowners who are delinquent on their home loans. See 12 USC 1701x(c). The prior counseling requirement had expired on September 30, 2000.

For purposes of this provision, a creditor includes a person or entity that services a home loan on its own behalf or on behalf of another person or entity. Home loan means a loan secured by a mortgage or lien on "residential property." Residential property means a single family residence including a condominium, an interest in a cooperative housing project, or a manufactured home and the lot on which such home is situated. See 12 USC 1701x(c)(6)(Definitions).

Under the statute, a national bank acting as a creditor, as defined, must provide notice of homeownership counseling to:

- Any homeowner who fails to pay, when due, any amount on a loan secured by a principal residence, who is, or is expected to be unable to make payments, to correct a delinquency, or to resume full home-loan payments, because of involuntary loss of income or other factors specified in the statute. Notice is not required if the home loan is assisted by the Farmers Home Administration. The notice must be made within 45 days from the date the payment was due, unless the homeowner pays the amount before the expiration of the 45-day period; and
- Any mortgage loan applicant who is a first-time homebuyer meeting eligibility for assistance from the National Homeownership Trust, if the loan will be FHA-insured and the mortgage involves a principal obligation greater than 97 percent of the property's appraised value. See 42 USC 12852(b)(1).

The required notice must, at a minimum, provide the homeowner or mortgage applicant with information on the availability of any homeownership counseling offered by the creditor and either (1) the list of HUD-approved counseling agencies, available at HUD's Website, (<http://www.hudhcc.org/agencies/all.txt>) or (2) the HUD toll-free telephone number (1-800-569-4287) through which the homeowner can obtain a list of HUD-approved nonprofit organizations that serve the homeowner's residential area. In addition, for eligible first-time mortgage loan applicants, the notice must state that completion of a counseling program is required for FHA-insured loans.

For further information, contact Compliance Policy (202) 649-5470.

To

Chief Executive Officers and
Compliance Officers of National
Banks and Federal Branches,
Department and Division Heads,
and Examining Personnel

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