Foreclosure avoidance

Consumer Financial Protection Bureau

Summary of the CFPB foreclosure avoidance procedures

In response to the poor experience of many distressed borrowers during the mortgage crisis, the CFPB is putting in place new procedures to facilitate borrowers' access to foreclosure avoidance options. The new rules are designed to provide consistent and meaningful protections for borrowers, and to give industry necessary flexibility. The following summary highlights the key provisions.

Foreclosure process

The new CFPB mortgage rules provide important new federal protections to borrowers to help ensure they are able to apply for all the foreclosure avoidance options available to them. The rules end the worst runarounds and eliminate some of the worst surprises of the mortgage crisis.

Servicers required to contact borrowers

By 36 days after a homeowner misses a payment or can't pay the full amount, the servicer must make a good faith effort to establish contact by telephone or at an in-person meeting. Servicers must reach out to borrowers every time they miss payments. If the borrower's situation calls for it, the servicer must tell the borrower about loan modification or workout options available to the borrower.

Before a borrower becomes 45 days delinquent, the servicer must send a written notice to the borrower or borrower's agent encouraging the borrower to contact the servicer, providing the phone number for the personnel assigned to the borrower, and giving the borrower examples of loss mitigation options the servicer offers. The borrower must also receive information about how to find a housing counselor.

Any periodic mortgage statements the borrower receives after he or she is 45 days late must include, among other things, information on the possible risks the borrower faces including expenses associated with the delinquency; information on whether the servicer has initiated the foreclosure process; the phone number and website where the borrower can find a HUD-approved housing counseling agency; and information about any loss mitigation programs the borrower has already agreed to.

Foreclosure restrictions

A mortgage servicer may not make a first notice or filing for foreclosure until the borrower is more than 120 days delinquent. The 120-day period under the rules is designed to give borrowers time to learn about workout options and file an application for mortgage assistance. In addition, if the borrower has already submitted a complete application for mortgage assistance – often called a loss mitigation application – the mortgage servicer may not begin the foreclosure process while a borrower is being evaluated for a loss mitigation plan. Of course, a loss mitigation plan might not prevent foreclosure if the borrower stops making payments under the plan.

Servicer personnel and information requirements

The CFPB's new rules are intended to make sure homeowners no longer have to worry about dealing with servicers who cannot access important information about the borrower's loan.

The CFPB rules require servicers to assign personnel to help delinquent borrowers and to make sure those employees, among other things, give accurate information about loss mitigation options, explain correctly what a borrower must do to apply for workout options, tell the borrower the status of a loss mitigation application, and be able to quickly locate the written information the borrower has submitted in connection with a loss mitigation application.

Servicers must also be able to tell homeowners the circumstances under which the servicer may make a referral to foreclosure. This information is critical to helping homeowners file applications for foreclosure avoidance assistance in time to preserve their rights under the new rules.

Timelines for distressed borrowers

Timing is very important in getting the maximum assistance in resolving a delinquent loan. The earlier borrowers seek help, the more protections they have under the new CFPB rules.

Borrowers have the most protections if a complete application for mortgage assistance is submitted within 120 days of the first missed payment because the servicer is not allowed to start a foreclosure process during those 120 days.

If a servicer receives a complete application for loss mitigation options 45 days or more before a scheduled foreclosure sale, the servicer must acknowledge receipt of the application in writing and determine if the application is complete. If the application is not complete, the servicer must tell the borrower what additional information and documents must be provided. (If a servicer receives an application less than 45 days before a foreclosure sale, the borrower is not entitled to a written notice that their application has been received.)

If a servicer receives a complete application 90 days or more before a scheduled foreclosure sale, the servicer must give the borrower at least 14 days to accept or reject an offer of a loss mitigation option. In addition, if a servicer receives a complete application 90 days or more before a scheduled foreclosure sale, the borrower may appeal the denial for any loan modification. The borrower has 14 days to file an appeal.

A complete application received by a servicer 37 days or more before a scheduled foreclosure sale will be evaluated for loss mitigation options available to the borrower. The servicer must give the borrower written notice of the decision, though the contents of the letter will depend on whether or not the servicer determines that the borrower qualifies for a workout option.

Servicers are required to explain their decisions to borrowers

Servicers are required to evaluate the borrower for all the foreclosure avoidance options that the borrower may qualify for, assuming a borrower submits a complete application early enough. Servicers, lenders, and investors are not required to offer any specific loss mitigation options.

When servicers deny a borrower for a loan modification option, they must give specific reasons for the denial. For example, if a borrower is denied a loan modification option because of an investor requirement, the servicer must explain the requirement.

Borrowers who sought help before may apply again for loss mitigation under the new rules

Borrowers are entitled to loss mitigation evaluations under the new rules, even if they applied for and were rejected for loss mitigation before the new rules took effect, provided they file their complete applications more than 37 days before a scheduled foreclosure sale.

The CFPB accepts consumer complaints about mortgages

The CFPB accepts complaints about mortgages, so if you have a problem, you can submit a complaint with the CFPB. The CFPB will forward your complaint to the company and work to get you a response from them. Consumers may submit a complaint by calling **(855) 411-2372 (CFPB)** or by completing the complaint form at **consumerfinance.gov/complaint**. The CFPB will also be conducting enforcement and supervisory activities to make sure servicers comply with the new rules.