



SERVICING

HUD Issues a Game-Changer for T&I Defaults

By Shannon Ozanich



New guidelines enforce shorter timelines for borrowers seeking assistance to prevent foreclosure.

There are two constants in the life of every reverse mortgage industry professional: change and adaptation. The economy and housing markets change, we adapt. The borrower demographic changes, we adapt. HUD makes changes, we adapt. Let's take a look at some of the more sweeping changes the last few years have brought forward on tax and insurance tracking, and how servicers are working diligently to soften their impact upon our industry's most valuable spokesperson: the borrower.

The January 2011 release of Mortgagee Letter 2011-01 provided much-needed guidance on mitigating tax and insurance defaults, and rumors swarmed after its release that more detailed HUD guidance on defaults would be forthcoming. Several years passed before that happened, and in the interim, servicers were provided with a certain amount of flexibility in the ML to assist defaulted borrowers. We began at Celinek with instituting a Single Point of Contact (SPOC) program, which assigned a dedicated representative to each borrower to help them through the default process. We participated in Fannie Mae's "Know Your Options" customer care training program, and recently participated in Hardest Hit Funds (HHF) programs aimed at helping reverse mortgage borrowers in default receive state assistance grant funds to help them pay delinquent taxes and insurance.

On April 23, 2015, HUD released updated guidance relating to tax and insurance default servicing in ML 2015-11, which replaced guidance released in ML 2011-01. After reading the ML several times, meeting with HUD in Washington, D.C., and holding several conference calls with others in the reverse mortgage industry, the adaptation process began in earnest. The implications to both the servicer and borrower are immense and these sweeping changes impact borrowers, servicer staffing requirements, servicing system programming, processes and procedures. In a word: everything.

The most profound impact to borrowers is the requirement for the servicer to request HUD's approval to call the loan due and payable within 30 days of advancing funds to pay property charges on behalf of the borrower. Under the prior mortgagee letter, the servicer had flexibility to work with the borrower to exhaust all loss mitigation options available before the loan had to be presented to HUD for due and payable approval. This dramatic change in policy has created an extremely challenging timeframe for the senior borrower to reach out for counseling assistance and obtain assistance from their servicer, local assistance programs or family.

Florida and California have implemented HHF programs for borrowers once their loan is in default, and the counseling, application, approval and funding process for these programs typically takes an average of 120 days from start to finish. ML 2015-11 provides a 45-day extension to the due and payable process for borrowers who have received conditional approval for funding, but that step in the process is typically around day 60-90. In all states, the counseling process alone takes an average of 60 days to get the borrower approved for any local assistance and to complete the budget plan.

Servicers are also experiencing situations where a delinquent tax advance is made by the servicer and the borrower pays the county directly before the servicer's check is received. The borrower then provides proof they paid the delinquent taxes and the servicer has to request a refund from the tax collector. The tax refund process through the tax collector can take anywhere from four to six weeks, and three to six months in extreme cases. In either case, the borrower's loan could erroneously be called due and payable, with HUD-required appraisal and inspection charges added to their loan balance.

Another significant change is that borrowers are no longer eligible to enter into a repayment plan until the loan is called due and payable. Previously, if the borrower agreed to a repayment plan (maximum of two years), then the loan did not have to be called due and



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payable while the borrower performed on that plan. Under the new rules, the borrower’s budget must be reviewed for repayment plan eligibility and the borrower could have up to 60 months to repay the default balance as long as the payment does not exceed 25 percent of their surplus income and

the loan does not reach 98 percent of the Max Claim Amount (MCA). If the borrower’s loan balance has already exceeded 98 percent of the MCA, they are not eligible for the repayment plan option. The MCA is not something that the borrower typically is aware of (as the MCA is typically a “back-office” threshold used by servicers and investors, not borrowers) and challenges can arise when communicating this complicated concept to the senior borrower.

If the repayment plan is approved, the servicer must request a Property Charge Loss Mitigation extension through HUD’s HERMIT system to extend the due and payable timeline for the duration of the repayment plan. While the due and payable/foreclosure processes are on hold during this time that the borrower is performing on their repayment plan, a HUD-required appraisal and monthly recurring property inspections are still required,

even while loans are in a repayment plan status.

If borrowers are not eligible for a repayment plan, they may be eligible for protection against foreclosure if they meet the age and unique occupancy criteria for an “at-risk extension.” The ML was not clear as to what documentation is required by HUD for this extension, making the request process challenging for the servicer and the borrower. If approved, the borrower must certify on an annual basis that they still qualify for the extension.

Delinquent homeowner association (HOA) dues must be paid in full by the borrower within 30 days of the advance, or the loan will be required to be called due and payable and repayment plan options will not be available for these advances. This is particularly challenging to track, as historically the delinquent HOA dues have been included in the property charge default balance, and now need to be tracked and repaid separately.

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Celink has experienced a slight increase in borrowers paying the default in full within the first 30 days or shortly after the loan is called due and payable. Borrowers who are unable to repay in full are willing to provide their budget information to be considered for repayment plan approval. We are very hopeful that the

new repayment plan calculation will identify borrowers who can truly afford to remain in their home, as well as those who cannot.

Even with this positive outlook, more borrowers need additional assistance. Servicers have genuine, substantiated concerns over the short window of time provided for senior borrowers to address their default before the servicer is required to request HUD to call the loan due and payable. Borrowers simply don’t have enough time to make contact with their servicer, go through counseling and apply for assistance before their loan is moved on to the foreclosure process.

We strongly stand with HUD for the need to set limits and boundaries on when a loan should be called due, however, we know from experience that the appropriate and reasonable number of days is not 30—it is realistically closer to 90-120 days. That sort of time frame gives the servicer a proper amount of time to effectively assist senior borrowers to research their options to cure the default.

ML 2015-11 can be likened to the proverbial stone dropped into the pond. The ripples (or ramifications) for our industry and borrowers continue. Despite the strict and rigid timeline changes and adaptations we all must make, our primary goals must remain unchanged: Assist senior borrowers in repaying the default, work with them to become sustainable within their budgets (which ensures payment of future property charge obligations), and remain peacefully in their homes. The greatest spokesperson for our industry and product deserves no less. ■

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