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STATEMENTS OF POLICY

HOUSING FINANCE AGENCY

[12 PA. CODE CH. 31]

Homeowner's Emergency Mortgage Assistance Program; Amendments

[51 Pa.B. 1824]

[Saturday, April 3, 2021]

The Housing Finance Agency (Agency) amends Chapter 31, Subchapter B (relating to policy statement on Homeowner's Emergency Mortgage Assistance Program) to read as set forth in Annex A.

History

The Homeowner's Emergency Mortgage Assistance Program (HEMAP) was established by the act of December 23, 1983 (P.L. 385, No. 91) (Act 91). HEMAP is designed to provide emergency mortgage assistance to homeowners facing foreclosure because of circumstances beyond their control. Assistance is provided in the form of a loan. The amount of the loan will be sufficient to bring the homeowner's delinquent mortgages current and, in addition, the Agency may provide continuing monthly mortgage assistance, as needed by the homeowner, for a period of time as prescribed by Act 91. Act 91 contains notice requirements that lenders shall follow prior to foreclosure, prescribes procedures that a homeowner shall follow in applying to the Agency for mortgage assistance and prohibits a lender from conducting foreclosure proceedings during the HEMAP application process. Act 91 requires repayment of the HEMAP mortgage assistance loan based upon the financial ability of the homeowner.

On February 21, 1984, the members of the Board of the Agency adopted initial guidelines to implement HEMAP under the authority of section 401-C(b) of the Housing Finance Agency Law (act) (35 P.S. § 1680.401c(b)), which provides in part that the Agency shall adopt initial program guidelines and may revise the guidelines when appropriate. The initial guidelines were published at 14 Pa.B. 723 (March 3, 1984). The members of the Board of the Agency adopted the following amendments to the guidelines: October 18, 1985, published at 16 Pa.B. 2126 (June 14, 1986); May 12, 1994, published at 24 Pa.B. 3224 (July 2, 1994); 29 Pa.B. 2859 (June 5, 1999); and 38 Pa.B. 4859 (August 30, 2008), effective September 6, 2008; April 30, 2016, published at 46 Pa.B. 2171. Under the Agency's authority to revise the statement of policy, the Agency adopts further amendments to Chapter 31, Subchapter B and the uniform Act 91 Notice (Notice).

Summary of Public Comment and Responses to Proposed Amendments

The proposed statement of policy was published at 50 Pa.B. 7312 (December 26, 2020). The Agency accepted formal written comments during a 45-day public comment period.

The Agency received comments from several interested parties, including counsel, consumer advocates and counseling agencies.

Following is a summary of comments received and the Agency's response to the comments.

§ 31.201. Definitions

Face-to-face meeting

The Agency proposed the addition of a definition of the face-to-face meeting requirement to clarify its scope. The comments received favored both the inclusion of the definition itself in addition to the breadth of its scope, which includes the option for an in-person meeting to complete the application process, as well as a remote application process. Several commentators, however, were concerned that the requirement to communicate simultaneously both audibly and visually was overly restrictive and, as a result, might impede the ability of certain Commonwealth residents, particularly senior citizens or those with limited or insufficient access to certain technology, to comply with the visual requirement. The fulfillment of the requirement to meet visually, a number of commentators suggested, has been further compounded by the novel coronavirus pandemic. Accordingly, these commentators suggested further expanding the scope of the definition such that meetings conducted exclusively by telephone satisfy the face-to-face meeting requirement. Another commentator proposed imposing a temporary halt to the face-to-face requirement for the duration of the novel coronavirus pandemic.

The act delegates authority to the Agency to promulgate guidance to administer HEMAP and to implement the provisions of the act. Thus, the authority granted permits the Agency to apply its interpretation of the language in the act, unless that interpretation is clearly erroneous. In its evaluation of the language of the act, the Agency relied on the plain meaning of the phrase "face-to-face." The Agency further considered the availability of certain technology during the drafting and subsequent passage of the act. While the Agency acknowledges that the legislation may not have contemplated certain methods of communication that are currently available, the legislation was able to assess the use of then-available technology, which included telephonic communication, at the time of its passage. Despite the availability of telephonic communication, the legislation requires that meetings between an applicant and a consumer credit counseling agency be conducted face-to-face and does not identify telephonic communication as a means to fulfill the requirement.

The objective of the amendment is to facilitate increased and more streamlined access to HEMAP. While the Agency recognizes the challenges that may be posed by inaccessibility to certain technology and is sympathetic to the heightened impact of these challenges resulting from the novel coronavirus pandemic, expanding the breadth of the amendment to include a telephonic application process appears to both surpass the original intent of the face-to-face meeting requirement and exceed the delegated authority

of the Agency. Further, the Agency does not possess the authority to temporarily stay requirements imposed by the act.

Summary of Changes

This final statement of policy incorporates the proposed amendment which clarifies the scope of the face-to-face meeting requirement as well as the proposed amendments to the uniform Act 91 Notice.

Fiscal Impact

The Agency does not anticipate fiscal impact from the amendments to Chapter 31, Subchapter B.

Effective Date

The amendments to Chapter 31, Subchapter B will become effective upon publication.

ROBIN L. WIESSMANN,
Executive Director

(Editor's Note: Title 12 of the Pennsylvania Code is amended by amending a statement of policy in § 31.201 to read as set forth in Annex A, with ellipses referring to the existing text.)

Fiscal Note: Fiscal note 39-12 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART I. GENERAL ADMINISTRATION

Subpart D. HOUSING FINANCE AGENCY

CHAPTER 31. HOUSING FINANCE AGENCY

**Subchapter B. POLICY STATEMENT ON HOMEOWNER'S
EMERGENCY MORTGAGE ASSISTANCE PROGRAM**

§ 31.201. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Consumer credit counseling agency—A nonprofit corporation or governmental entity located in this Commonwealth which has been designated by the Agency to provide Homeowner's Emergency Mortgage Assistance Program counseling. A qualified consumer credit counseling agency shall either be certified as a housing counseling agency by the United States Department of Housing and Urban Development or otherwise be determined acceptable by the Agency. A list of counseling agencies approved by the Agency is set forth in Appendix C. This list was last updated and includes all changes through April 1, 2016. Future updates of this list will only appear on the Agency's web site at www.phfa.org, and will be updated on a periodic basis as changes occur. The Agency will annually publish a schedule for updates to the list, and mortgagees will be expected to update their lists in accordance with the schedule.

Face-to-face meeting—A meeting conducted either in-person or remotely using technological means, through which the applicant and consumer credit counseling agency communicate with each other contemporaneously, both audibly and visually.

Gross household income—The total income of the applicant, all other owners-occupants of the residence, any spouse and children residing in the same household as the applicant and other residents of the household declared by the mortgagor as dependents for Federal tax purposes. The term does not include the income of minor children. The income of adult children or other unrelated individuals residing in the household shall be considered part of gross household income only to the extent that their income is available to the household.

* * * * *

APPENDIX A

All paragraphs contained within the body of the notice shall appear in 12 point font.

Date: _____

Act 91 Notice* (24 point font, bold)

La Notificación de Acto 91* (14 point font, bold)

Save Your Home From Foreclosure

This is an official Act 91 Notice. You are receiving this notice because Pennsylvania law requires mortgage lenders to send it to homeowners facing foreclosure. This notice contains important legal information about your rights and how you can save your home. **YOU MAY BE ELIGIBLE FOR STATE FUNDED ASSISTANCE** from the Homeowner's Emergency Mortgage Assistance Program (HEMAP), a program of the Pennsylvania Housing Finance Agency (PHFA).

**CALL A COUNSELING AGENCY FOR A MEETING.
APPLYING FOR HEMAP MAY TEMPORARILY STOP A
FORECLOSURE ACTION.**

To apply, you must have a face-to-face meeting with a HEMAP-approved Consumer Credit Counseling Agency within 33 days of the date of this notice. This meeting is free and is the only way to apply for HEMAP. A list of approved Counseling Agencies is attached. A list is also available at <http://www.phfa.org/counseling/hemap.aspx>. If after speaking with a Counseling Agency you have further questions about HEMAP, please call 1 (800) 342-2397. Individuals with hearing impairment may call 711 (RELAY).

To make sure you meet the deadline, please call a Counseling Agency **immediately** to schedule a face-to-face meeting. **Keep this entire Act 91 Notice, including the attached Account Summary, and have it available for your face-to-face meeting, whether done in person or remotely.** A counselor can:

- Help you apply for HEMAP and explain how the program works.
- Talk with your lender about a loan modification or other repayment plan.
- Explain possible options to avoid foreclosure such as loss mitigation, refinancing your loan, selling or transferring your property to a third party or having a third party cure the delinquency on your behalf through a short sale or assumption of mortgage.
- Provide referrals for other assistance, programs or services.
- Explain other rights you may have, including your right to assert the non-existence of the debt and any other defenses you may have.

Even if you miss the deadline, you may still apply for HEMAP, but a late HEMAP application will not stop your lender from foreclosing. However, if your application is approved, a HEMAP assistance loan will bring your mortgage current and stop the foreclosure. HEMAP may also temporarily help you make future mortgage payments.

Alternatively, you may save your home from foreclosure by curing your default. That means paying your lender all amounts currently due, including reasonable late charges, attorney fees and other costs and by otherwise fulfilling your mortgage obligations. You may cure the default at any time up to one hour before a Sheriff's Sale, up to three times in any calendar year.

If you have filed a petition in bankruptcy, this notice is provided for informational purposes only and is not an attempt to collect a debt. If you are protected by a bankruptcy filing you may still apply for HEMAP assistance.

***CONSULTE AL DORSO LA TRADUCCIÓN DE ESTA NOTIFICACIÓN IMPORTANTE, O LLAME AL 1.800.342.2397.**

ACT 91 NOTICE

PAGE 1

Fecha: _____

Notificación sobre la Ley 91**

Act 91 Notice**

Salve a su Hogar de la Ejecución Hipotecaria

La presente es una notificación oficial sobre la Ley 91. Usted está recibiendo esta notificación porque la ley de Pennsylvania requiere que los prestamistas hipotecarios la envíen a los propietarios de viviendas que se encuentren enfrentando una ejecución hipotecaria. Este aviso contiene información legal importante acerca de sus derechos y de lo que puede hacer para salvar su hogar. **ES POSIBLE QUE SEA ELEGIBLE PARA OBTENER AYUDA CON FONDOS ESTATALES** del Programa de Asistencia de Emergencia Hipotecaria para Dueñ|fnos de Hogares (HEMAP, por sus siglas en inglés), un programa de la Agencia de Financiamiento de Hogares de Pennsylvania (PHFA, por sus siglas en inglés).

**LLAME A UNA AGENCIA DE ASESORAMIENTO PARA
CONCERTAR UNA REUNIÓN.
LA SOLICITUD PARA EL HEMAP PUEDE DETENER DE FORMA
TEMPORARIA LA EJECUCIÓN
DE UNA HIPOTECA.**

Para presentar su solicitud, debe celebrar una reunión presencial con una Agencia de Asesoría Crediticia para el Consumidor aprobada por el HEMAP, antes de que transcurran 33 días, a partir de la fecha de esta notificación. Esta reunión es gratuita y es la única manera de solicitar el HEMAP. Se adjunta una lista de Agencias de Asesoría aprobadas. También puede encontrar una lista en <http://www.phfa.org/counseling/hemap.aspx>. Si luego de hablar con una Agencia de Asesor|fia tiene alguna pregunta sobre el HEMAP, por favor llame al 1 (800) 342-2397. Las personas con discapacidades auditivas pueden llamar al 711 (RELÉ).

Con el fin de asegurar que cumpla con el plazo, por favor llame a una Agencia de Asesoría y programe una reunión presencial **de inmediato**. **Conserve esta Notificación sobre la Ley 91, con el Resumen de Cuenta adjunto, y téngalo disponible para a su reunión presencial, ya sea en persona o de forma remota.** Un asesor puede:

- Ayudarlo a presentar su solicitud al HEMAP y explicarle cómo funciona el programa.
- Hablar con su prestamista acerca de una modificación del préstamo u otro plan de pago.
- Explicarle las opciones posibles para evitar la ejecución de la hipoteca, como la mitigación de pérdidas, la refinanciación del préstamo, la venta o transferencia de su propiedad a un tercero, o que un tercero pague el atraso en su nombre, a través de una venta al descubierto o asumiendo la hipoteca.

- Derivarlo a otro tipo de asistencia, programa o servicio.
- Explicarle otros derechos que pueda tener, incluido su derecho de reivindicar la no existencia de la deuda y cualquier otra defensa que tenga.

Incluso si no cumple con el plazo, es posible presentar su solicitud para el HEMAP, pero la solicitud tardía al HEMAP no impedirá que su prestamista ejecute la hipoteca. Sin embargo, si se aprueba su solicitud, el préstamo de ayuda del HEMAP pondrá su hipoteca al día y detendrá la ejecución. El HEMAP también puede ayudarlo, de manera temporal, a realizar los pagos de hipoteca futuros.

También puede optar por la alternativa de subsanar el incumplimiento para salvar a su hogar de la ejecución hipotecaria. Eso significa pagarle a su prestamista todos los montos adeudados a la actualidad, incluidos los cargos moratorios, los honorarios de abogados y otros costos razonables, y cumplir con sus obligaciones hipotecarias. Puede subsanar el incumplimiento en cualquier momento, hasta una hora antes de la subasta judicial, un máximo de tres veces por cada año calendario.

Si usted ha presentado una solicitud de quiebra, esta notificación se proporciona solo con fines informativos y no es un intento de cobrar una deuda. Usted puede solicitar la ayuda del HEMAP, incluso si está protegido por una declaración de quiebra.

*SEE REVERSE SIDE FOR TRANSLATION OF THIS IMPORTANT NOTICE OR CALL 1.800.342.2397. (10 POINT FONT)

ACT 91 NOTICE

PAGE 2

Fecha: _____

ACT 91 NOTICE (12 point font, bold)

Account Summary (12 point font, bold)

Your Loan Details: (16 Point Font, Bold)¹

Name(s) on Account:
(12 Point Font)²

[Name(s)] The name(s) of the homeowner(s) and any other name appearing on the account; if the notice is being provided to additional parties not appearing on the account, the names of the additional parties shall be included under the names of the homeowner and other names appearing on the account. (12 Point Font)³

Address of Mortgaged Property: [Address] The address of the mortgaged property.
[Address]

Account Number:

[Account Number] The account number used by the mortgagee to reference the homeowner's account.

How to Contact Your Lender:

Current Lender or [Lender or Servicer Name] The name of the current Servicer: Lender/Servicer for the account.

Lender or Servicer [Address] The address of the current Lender/Servicer Address: [Address] for the account.

Lender or Servicer [Phone Number] The general phone number for the Phone Number: Lender/Servicer (i.e., a 1(800) number).

Contact Person: [Name] The name of a contact person at Lender/Servicer for the account.

Phone Number: [Phone Number] The direct phone number for the contact person for the account.

Fax Number: [Fax Number] The fax number for the contact person for the account.

Email: [Email Address] The email address for the contact person for the account.

Default Information:

; itemize and describe; **Please be aware that fees and costs may continue to accrue through the duration of the delinquency.* An itemization of all amounts necessary to cure the delinquency, including fees and costs. Language regarding the continued accrual of fees should appear at the end of the itemization.

Monthly Payments Missed: [Months missed e.g., Jan. 2014-August 2014]

Total Amount Past Due: **\$[amount(s)]⁴**

ACT 91 NOTICE

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How to Cure the Default:

, plus any payment and other charges that have become due to your lender or servicer by cash, cashier's check, certified check or other means acceptable to both parties.

Within 30 Pay **\$[amount]**⁵
Days of the
Date on This
Notice:

Send Payment [Lender or Servicer Name] Lender/Servicer name and
and Make [Address] address where the Lender/Servicer receives
Payable to: [Address] payment.

To Cure [describe]Action homeowner must take to remedy a default other than a "Other financial default.

Default":

Is the Language indicating whether the mortgage is assumable. If the mortgage Mortgage is assumable, the text in this box should read, "Yes, you may sell or Assumable? transfer your home to a buyer or transferee who will assume the mortgage debt, if all the outstanding payments, charges and attorneys fees and costs are paid prior to or at the sale and if the other requirements of the mortgage are satisfied." If the mortgage is not assumable, the text in this box should read "No" only. If the mortgage is not assumable under the terms of the contract, but the Lender is willing to discuss the possibility of allowing an assumption of the mortgage, the text in this box should read "No, but please contact your Lender to discuss your options."

ACT 91 NOTICE

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[Pa.B. Doc. No. 21-514. Filed for public inspection April 2, 2021, 9:00 a.m.]

¹ All Table headings shall appear in 16 point font, bold.

² All Field headings shall appear in 12 point font.

³ All account information shall appear in 12 point font unless otherwise indicated.

⁴ All amounts listed in this field shall appear in 12 point font, bold. The itemization and description of the amounts shall not appear in bold.

⁵ All amounts listed in this field shall appear in 12 point font, bold.

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