

## SECTION 21001 – MULTI-FAMILY DELINQUENCY SERVICING

### .01 DELINQUENCIES AND EVENTS OF DEFAULT

#### A. Collecting Delinquent Loans

The following is the minimum collection program that AHFC finds acceptable for the collection of delinquent loans. The development of a more extensive program by the Servicer is encouraged. The Servicer is fully responsible for protecting AHFC's interest. Loan payments are generally due on the first day of the month and are considered delinquent if received after the first. Timely initial collection efforts are extremely important in bringing a loan current within the shortest time possible.

All collection efforts and conversations with borrowers (collectively referred to as "borrower") must be documented. The collection timeframes listed below must include attempts to contact the borrower on the loan. Acceptable communication with the borrower includes but is not limited to telephone, mail, email and face-to-face discussions. The Servicer must vary the days of the week and times of the day for making calls with the borrower, including evenings, to achieve communication with the borrower.

1. Identification of a delinquent loan should be made as early as possible, but not later than the **16<sup>th</sup> day of the month**.
2. A late notice must be mailed each month the loan reaches the **17<sup>th</sup> day of delinquency** unless otherwise mandated by the loan documents.
3. Borrower who defaults in the first year of the loan: the Servicer is required to begin early telephone contact between the 7<sup>th</sup> and the 10<sup>th</sup> of the month and counsel the borrower to make timely payments. The Servicers must offer early delinquency counseling to prevent the loan from becoming seriously past due and to avoid establishing a pattern of unnecessary delinquencies in the future.
4. The Servicer should perform actual telephone calls as the principal form of contact with the borrower. Unmanned automated message calls do not constitute sufficient attempts to contact borrower. At least 2 quality right party contact attempts must be made prior to the 30<sup>th</sup> day of delinquency.
5. By the **30<sup>th</sup> day of delinquency**, the Servicer should have contacted the borrower by whatever means available. Telephone calls, mail, email and face-to-face interviews are preferred.

If no contact has been made with the borrower by the 30<sup>th</sup> day of delinquency and a full payment has not been received within the last

30 days, the Servicer must exercise additional methods to achieve and establish contact, including field calls, posting property, skip tracing, additional letters and phone calls to the borrower. These additional approaches are to be performed and documented no later than the 45<sup>th</sup> day of delinquency.

6. If the mortgage reaches **45 days delinquent**:

- a. The Servicer must take steps to verify the status of utilities between the 45<sup>th</sup> and the 60<sup>th</sup> day of delinquency. If the Servicer becomes aware of the possibility the property may be vacant or abandoned, the Servicer must inspect and verify utilities within 3 business days.
- b. If satisfactory arrangements to bring the account current have not been made by the 45<sup>th</sup> day of delinquency, a face-to-face interview with the borrower and a property inspection must be conducted. Attempts to arrange an interview and inspection must be documented.

**Note:** In face-to-face interviews conducted or communication with the borrower, the Servicer must establish the reason for default, the borrower's ability to make payments and financial circumstances to repay the mortgage, the borrower's intentions with the property, review financial forms, discuss the loss mitigation options available to prevent foreclosure and cure the delinquency, and the action that will be taken if the delinquency is not cured.

A property inspection is to include 10% of the occupied units, all vacant and all common areas noted in [Section C – Delinquent Property Inspection](#).

7. A demand letter must be sent on or before the 45<sup>th</sup> day of delinquency; however, in some cases a demand may be sent as early as the 32<sup>nd</sup> day of delinquency. The Servicer should consult the individual loan documents and, if applicable, comply with the insurer/guarantor requirements.
8. If a satisfactory response is not obtained, the Servicer must continue to follow up with notices, letters, telephone contact, face-to-face interviews, field calls, etc. until the loan has been brought current. At no point through the delinquency process is the Servicer to stop its collection activity.
9. If it is discovered the property has been abandoned, a demand letter should be sent immediately to the borrower. The Servicer must also

submit a Notification of Recommended Action ([Form SER-71](#)) recommending appropriate action to AHFC's Servicing Department. (Refer to [Section 13000.07 – Preservation of Property.](#))

10. When it is determined the loan will not be reinstated, but no later than the **60<sup>th</sup> day of delinquency**, the Servicer must submit a completed Notification of Recommended Action ([Form SER-71](#)), with any applicable addendums, recommending action to protect AHFC's interest. Comments should fully describe the reason for default, the borrower's intentions and attitude about the property, Servicer actions taken, and support the action recommended. The individual circumstances of each loan should be reviewed and analyzed to determine the appropriate course of action to remedy the delinquency.

**B. Rent Roll/Income and Expense Statement**

When contacting a delinquent or defaulting borrower, the Servicer must make diligent efforts to obtain a current rent roll and an income and expense statement for the mortgaged premises. These efforts should be well documented.

**C. Delinquent Property Inspection**

The Servicer must inspect the mortgaged premises no later than the 45<sup>th</sup> day of delinquency. Thereafter, the mortgaged premises must be inspected in 30-day intervals while the loan is delinquent, or until receipt of the first payment in accordance with a loss mitigation plan. If the borrower defaults on the loss mitigation plan and the plan is not reinstated, or if contact is not made with the borrower, inspections are to resume within 10 business days.

The Servicer must complete a property inspection report form containing the same information as the Multi-Family Site Visit Report ([Form SER-100](#)) for each inspection. An exterior photo reflecting the condition of the property on that inspection date must be attached to each inspection report.

If there are indications a property may not be occupied, the Servicer must inspect it immediately.

When a Servicer confirms the property is vacant or abandoned and has taken possession of property, the servicer must include an interior inspection as part of the monthly inspection report.

If the property is in an area that has a high rate of vandalism or neglect, the Servicer is expected to inspect it as often as deemed necessary.

The Servicer must inspect and comment on the condition of the following areas:

1. All vacant units.
2. All common areas.
3. All maintenance areas, including boiler and machinery.
4. All grounds to include recreational areas.
5. Office areas.
6. Laundry rooms, garages and carports.
7. Roof and foundation.
8. 10% of the occupied units (required on the initial 45-day delinquency inspection only and is not required on the subsequent 30-day interval inspections).
9. Explanation of the cause, or the condition causing, a fair or poor rating on the inspection report.

D. Assignment of Rents

If a borrower is 60 days or more delinquent and is collecting rent, the Servicer should consider completing the assignment of rents.

1. Conditions

An assignment of rents may be used as a collection tool if:

- a. Other arrangements to repay the delinquency cannot be made.
- b. The Deed of Trust provides for an Assignment of Rents and collection of rents under these circumstances is permitted by law.
- c. The action will not create any rights for the occupant that would impair the ability to foreclose on the loan documents.
- d. The Servicer's property inspection report indicates the property is free of any evidence of hazardous materials and does not reflect substantial deferred maintenance.

If assigned, the Servicer must aggressively collect on the rents.

2. Submission to AHFC

The Servicer should submit a Notification of Recommended Action ([Form SER-71](#)) to AHFC prior to assigning rents on properties larger than a four-family property, or if one of the above conditions cannot be met. A written waiver should be obtained from AHFC if the Servicer believes an Assignment of Rents is not in the best interest of AHFC. The collected rents should be held and applied by the Servicer.

3. Appointment of a Receiver

The Servicer is cautioned to follow the requirements of the loan documents when placing an Assignment of Rents on a property. If an Assignment of Rents is not in AHFC's best interest, the Servicer should consider the appointment of a Receiver.

4. Rental Agreements

The Servicer should obtain copies of any rental agreements executed by the borrower with the tenants and be familiar with state law regarding landlord/tenant relationships. If the Servicer has taken an Assignment of Rents and the property is subject to Homeowner's Association dues, the Servicer should be aware there might be a responsibility of assuming the payment of the dues, depending upon the terms of the Lease Agreement executed with the tenant. **Failure to properly assign rents may result in the assessment of penalties by AHFC.**

5. Accounting for Rental Income

The Servicer must keep a record of rental income collections and disbursements so they can be considered when the final claim under the mortgage insurance or guaranty is filed. (Refer to [Form SER-70-1](#) for guidelines on remitting collected rents to AHFC.)

## .02 MORTGAGE INSURANCE REQUIREMENTS

If the loan has mortgage insurance or a guaranty, the Servicer should be familiar with and be able to satisfy all the requirements of the insurer/guarantor. It is expected the Servicer will have adequate controls to assure timely filing of all notices to the insurer and that payment of any mortgage guarantee or insurance proceeds will not be jeopardized. **If the requirements of the insurer/guarantor conflict with AHFC requirements, the Servicer should adhere to the insurer/guarantor requirements and immediately notify AHFC in writing of the conflict that exists.** AHFC will respond to the Servicer in writing of additional courses of action to be taken.

### **.03 REPORTING DELINQUENT AND FORECLOSED LOANS TO CREDIT BUREAUS**

All mortgagors with 90-day delinquencies, Deeds-in-Lieu or completed foreclosures must be reported to the major credit repositories. Reporting is to be completed on all mortgagors obligated on the loan.

### **.04 ACTION OTHER THAN FORECLOSURE**

It is the Servicer's responsibility to act in a timely, efficient and responsible manner in order to protect the interests of AHFC or the respective interests of AHFC and any participant in the case of a participation loan. The Servicer must exercise diligence to prevent any losses.

#### **A. Adverse Conditions**

The Servicer must notify AHFC's Servicing Department in writing within 5 business days of discovery or notification of any of the following conditions:

1. Any lien that attains or may attain priority over the mortgage lien.
2. Deterioration, waste or lack of repair of the mortgaged premises (health and safety).
3. A serious building code violation or similar citation involving the subject property.
4. The placement of a junior lien on the subject property without the prior approval of AHFC.
5. Vacancy or collection loss that impairs the value of the subject property.
6. A change in the use of the property from the original intent of the loan or more than 20% of the net rentable space being used for non-residential purposes.
7. Any default under the terms of the security instrument or other agreements.
8. Any event that adversely affects the credit or managerial ability of the borrower.
9. Litigation involving the subject property that may adversely affect its value or AHFC's lien position.
10. Termination or reduction of hazard, default or any other insurance coverage.

11. Any other situation that may have an adverse impact on the subject property, AHFC's lien position or the borrower's ability to make timely payments.

**B. Notification**

Upon a sale or transfer of the subject property without prior written approval of AHFC, either alone or in conjunction with any of the above conditions, the Servicer must contact AHFC within 5 business days.

Should any of these conditions arise, the Servicer must maintain complete and accurate records of the circumstances, including any evidence necessary to substantiate enforcement of any action based on non-monetary default under the security instrument or other action against the borrower. When notifying AHFC of any of the adverse matters listed in this section, the Servicer must also advise AHFC in writing of relevant surrounding facts and available courses of action, such as:

1. Economic evaluations of the property, the borrower or the professional manager.
2. The means and likely expense of replacing the professional manager.

The Servicer should work closely with AHFC toward the appropriate resolution of adverse situations. When the delaying of protective action might result in impairment of the subject property or AHFC's lien position, the Servicer must immediately notify AHFC's Servicing Department via telephone or fax to coordinate a resolution to the situation.

**.05 FORBEARANCE AND REPAYMENT PLANS**

The Servicer must request AHFC's approval to enter into a written forbearance or repayment plan with the borrower at any time. The repayment plan must provide for the liquidation of all arrearage and costs and result in the payment of future payments on their due dates within a specified time.

The repayment plan must be approved by AHFC and the underlying insurer/guarantor, if applicable, in writing. Unless directed otherwise by AHFC, the Servicer must arrange for the preparation and execution of appropriate documents and must forward copies to all parties concerned. The Servicer must advise AHFC at least monthly on the status of any repayment plan and of the condition of the mortgaged premises until the mortgage becomes current.

**.06 DELINQUENT LOAN MODIFICATION**

There may be times when the only way to reasonably provide relief to a mortgagor is to change the terms of the loan. The Servicer may consider a modification of the

mortgage to cure the delinquency, subject to investor and insurer/guarantor approval (if applicable). AHFC will typically consider capitalization of delinquent interest.

The Servicer's recommendation should include the following:

- An explanation of why the mortgagor should be granted relief.
- The Servicer's written analysis of the cause of the delinquency and whether it is temporary or permanent in nature.
- An explanation as to why a forbearance and repayment plan is not feasible.
- The Servicer's written report and analysis as to the borrower's capability and willingness to cure the default.
- The Servicer's detailed financial analysis of the operation of the mortgaged premises along with all supporting materials (rent-roll).
- A written analysis of the current condition of the local economy and competing rental properties near the mortgaged premises.
- A written report or description of any other liens against the mortgaged premises.
- The borrower's payment history on the mortgage and the payment history of the borrower or entities or individuals affiliated with this borrower on any other mortgage serviced by the Servicer and owned in whole or in part by AHFC.
- A written analysis of the escrow account, if any, documenting any unpaid taxes or insurance premiums.
- Copies of the borrower's current financial statement and credit report.

## **.07 BANKRUPTCY PROCEEDINGS**

See [Section 13000.12](#) for the Servicing guidelines on bankruptcy proceedings.

## **.08 INITIATION OF FORECLOSURE**

### **A. Foreclosure Recommendation**

No later than the 60<sup>th</sup> day of default, the Servicer must submit a Notice of Recommended Action ([Form SER-71](#)) to AHFC recommending appropriate action. The Servicer's recommendation must include:

1. The likely expense of obtaining marketable title in the shortest time possible.
2. The means and likely expense of gaining control of the rents from the mortgaged premises.
3. The means and likely expense associated with other alternative courses of action such as suits for personal liability under the Note or partial foreclosure under the security instrument.

**B. Foreclosure Attorney or Trustee**

After receiving AHFC's approval to foreclose, the Servicer shall promptly refer the matter to initiate action. The foreclosure action should include UCC filings, if applicable.

Within 7 calendar days of recording of the Notice of Default (NOD) the Servicer should:

- a. Notify AHFC of the summary foreclosure sale date and provide a copy of the NOD.
- b. Notify AHFC of all liens and encumbrances noted on the Trustee's Sale Guarantee (TSG) via a TSG Certification. If applicable, include an explanation and/or recommendation. AHFC may request a copy of the TSG.

**C. Attorney's and/or Trustees Fees/Costs**

AHFC expects the fee and expenses of the trustee, substitute trustee and attorney to be reasonable and comparable to those customarily charged for this type of service in the area where the mortgaged premises are located. Prior approval of the fees to be charged by the attorney and/or trustee is required in all cases.

**.09 ACTION DURING FORECLOSURE**

During foreclosure, the Servicer must see to the proper management of the mortgaged premises, including protection against waste, disposition of the mortgaged premises and the prompt collection of all rents and payment of all operating expenses. It is the Servicer's responsibility to see the mortgaged premises are properly managed at all times to avoid or minimize claims by the borrower when the property is not being managed by the borrower or the borrower's agent.

A. Appointment of Receiver and/or Managing Agent

The Servicer may recommend the appointment of a receiver and/or managing agent if it believes that action would be in AHFC's best interest. The fee for the receiver and/or managing agent will ordinarily be paid from income generated from the mortgaged premises. If the income generated from the mortgaged premises is not sufficient to pay all normal operating expenses (including the fee for the services or the receiver and/or managing agent), the Servicer must advance funds as and when necessary to pay that deficit. Advances made by the Servicer in conjunction with these requirements will be reimbursable upon acquisition or as otherwise approved by AHFC.

B. Rent Receipts

To the extent permitted by law, rent receipts should be applied toward obligations in accordance with the Security Documents.

C. Inspection Report

During foreclosure, the Servicer must continue to inspect the mortgaged premises in 30-day intervals and should notify AHFC of the results of the inspection.

D. Occupancy Status

At least 60 days before the scheduled foreclosure sale, Servicer must notify AHFC of the occupancy status of the property.

E. Requests for Value

At least 60 calendar days before the scheduled foreclosure sale, the Servicer must request from AHFC instructions on obtaining value for bidding at the foreclosure sale.

F. Recommendation

At least 30 calendar days before the scheduled foreclosure sale, the Servicer must submit a valuation package and the Servicer's recommendation to AHFC to obtain bidding instructions.

G. Bidding Instructions

Upon receipt of the valuation package, AHFC will advise the Servicer of bidding instructions. Bidding instructions must be obtained from AHFC no later than 20 days before scheduled sale date.

H. Foreclosure Timeframe

The foreclosure action should be completed within 8 months from the date of default. The Servicer must be able to adequately support any deviations to this timeframe.

I. AHFC Notification

On the day of the sale or on the day of recording of the Deed-in-Lieu, the Servicer must notify AHFC's Servicing Department by email or phone call before 3:00 p.m. with the results of the sale.

J. Property Transfer Checklist

The Servicer must submit a Property Transfer Checklist ([Form SER-90A](#)) to AHFC's Servicing Department within 10 calendar days of completing the action,

**.10 REAL ESTATE OWNED**

See [Section 15000](#) for the Servicing guidelines on Real Estate Owned properties.