

Sample CD-Rom Contents: Agency Interpretation: Mortgagee Letter 97-44

U. S. Department of Housing and Urban Development
Washington, D.C. 20410-8000

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OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

MORTGAGEE LETTER 97-44

MEMORANDUM FOR: ALL APPROVED MORTGAGEES

ATTENTION: SINGLE FAMILY SERVICING MANAGERS

SUBJECT: Revised HUD-PA-426, HOW TO AVOID FORECLOSURE (May 1997)

This is to advise all HUD-approved lenders that the brochure, HUD-PA-426-H, SAVING YOUR HOME, March 1995, has been revised as of May 1997. The brochure is now called HUD-PA-426, HOW TO AVOID FORECLOSURE (May 1997).

The HOW TO AVOID FORECLOSURE brochure is redesigned to delete references to the Mortgage Assignment Program which was terminated in April of 1996. The brochure now concentrates exclusively on the new Loss Mitigation Program options available to delinquent homeowners.

You may request copies of the brochure at no cost by contacting the Department's Customer Service Center at 1-800-767-7468. You may also order the brochure electronically from the Consumer Service Center's web site (www.hud.gov/odintro.html). You may acquire the brochure by accessing the HUD Loss Mitigation Home Page (www.hud.gov/fha/comp/mitig/mitihome.html).

You may reproduce the brochure at your own expense; however, you may not change its contents in any way.

NOTIFICATION TO HOMEOWNER

You must continue to contact delinquent homeowners in writing between the 35th and 45th day of delinquency. However, you may discontinue using the mandatory Borrower Information Packet Cover Letter (Handbook 4330.2, REV. 2, May 1995, Appendix A-ASGN-1).

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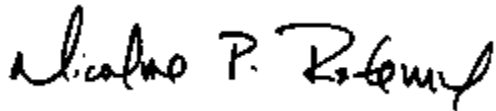
You may design your own initial letter, but at a minimum the following information must be included in the written notice:

1. Spanish warning at the top of the letter;
2. A toll free number for homeowners to use to contact the lender to discuss their delinquent account;
3. A TDD number for homeowners to use to contact the lender;
4. Copy of HUD-PA-426, "HOW TO AVOID FORECLOSURE" (May 1997) brochure;

5. Total number of payments due plus any late charges and dates of payments due (i.e., June and July). Date payments must be received by lender;
6. The toll free number for Housing Counseling Agencies (1-800-569-4287);
7. The toll free TDD number for Housing Counseling Agencies (1-800-877-8339);
8. A request for financial information (Form [HUD-92068F](#), optional).

Attached you will find a copy of the new brochure. If you have any further questions, please call the Single Family Servicing Division at 202-708-1672, or contact us via the Internet at hsg-lossmit@hud.gov.

Sincerely yours,



Nicolas P. Retsinas
Assistant Secretary for Housing-
Federal Housing Commissioner

[Attachment](#)

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How to Avoid Foreclosure

May 1997

This booklet explains how property owners can avoid losing their homes because of late payments.

Q: What happens when I miss my mortgage payments?

Foreclosure may occur. It is the legal means that your lender can use to repossess (take over) your home. When this happens, you must move out of your house. Additionally, if your property is worth less than the total amount you owe on your mortgage loan, you could be pursued by your lender or the U.S. Department of Housing and Urban Development (HUD) for a deficiency judgment. If that happens, you not only lose your home, but there also would be an additional debt that you would owe to your lender or to HUD.

Foreclosure or a deficiency judgment could seriously affect your ability to qualify for credit in the future. So you should avoid it if all possible!

Q: What should I do?

1. **DO NOT IGNORE THE LETTERS FROM YOUR LENDER.** If you are having problems making your payments, call or write to your lender without delay. Clearly explain your situation. Be prepared to provide them with financial information, such as your monthly income and expenses. Without such information, they may not be able to help.
2. Stay in your home for now. You may not qualify for assistance if you abandon your property.
3. Contact a HUD-approved housing counseling agency. Call 1-800-569-4287 or TDD 1-800-877-8339 for the housing counseling agency nearest you. These agencies are valuable resources. They frequently have information on services and programs offered by Government agencies as well as private and community organizations. The housing counseling agency may also offer credit counseling. These services are usually free of charge.
4. If you brought your home with a Veterans Administration (VA) guaranteed loan, call the VA office nearest you.

Q: What are my alternatives?

Your options include the following:

Special Forbearance. Your lender may be able to arrange a repayment plan which would be based upon your financial situation and may even provide for a temporary reduction or suspension of your payments. You may qualify for this if you have recently experienced an involuntary reduction in income or an increase in living expenses. You must have also furnished information to your lender to show that you would be able to meet the requirements of the new payment plan.

Mortgage Modification. You may be able to refinance the debt and/or extend the

term of your mortgage loan. This will help you catch up by possibly reducing the monthly payments to a more affordable level. You may qualify if you have recovered from a financial problem but your net income is less than it was before the default (failure to pay).

Partial Claim. Your lender may be able to work with you to obtain an interest-free loan from HUD to bring your mortgage current. You may qualify if: 1) your loan is at least 4 months delinquent, and no more than 12 months delinquent; 2) your mortgage is not in foreclosure; and 3) you are able to begin making full mortgage payments. When your lender files a Partial Claim, the U.S. Department of Housing and Urban Development will pay your lender the amount necessary to bring your mortgage current. You must execute a Promissory Note, and a Lien will be placed on your property until the Promissory Note is paid in full. The Promissory Note is interest-free, and will be due if you sell or leave your property, or when your mortgage matures.

Pre-foreclosure sale. This will allow you to sell your property and pay off your mortgage loan to avoid foreclosure and damage to your credit rating. You may qualify if: 1) the "as is" appraised value is at least 70% of the amount you owe and the sales price is 95% of the appraised value, 2) the loan is at least 2 months delinquent prior to the pre-foreclosure sale closing date; 3) you are able to sell your house within 3 to 5 months (depending on what your lender agrees to). An additional benefit to this option is the assistance you will receive with the Seller-paid closing costs.

Deed-in-lieu of foreclosure. As a last resort, you may be able to voluntarily "give back" your property to the lender. This won't save your house, but it will help your chances of getting another mortgage loan in the future. You can qualify if: 1) you are in default and don't qualify for any of the other options; 2) your attempts at selling the house before foreclosure were unsuccessful; 3) you don't have another FHA mortgage in default.

Q: How do I know if I qualify for any of these alternatives?

A housing counseling agency can help you determine which, if any, of these options may meet your needs. You should also discuss the situation with your lender.

Q: Should I be aware of anything else?

Yes. Beware of scams! Solutions that sound too simple or too good to be true usually are. If you're selling your home without professional guidance, beware of buyers who try to rush you through the process. Unfortunately, there are people who may try to take advantage of your financial difficulty. Be especially alert to the following:

Equity skimming. This type of scam involves a "buyer" approaching you and offering to get you out of financial trouble by promising to pay off your mortgage or give you a sum of money when the property is sold. The "buyer" may suggest that you move out quickly and deed the property to him or her. The "buyer" then collects rent for a time, does not make any mortgage payments, and allows the lender to foreclose. Remember that signing over your deed to someone else does not necessarily relieve you of your obligation on your loan.

Phony counseling agencies. Some groups calling themselves "counseling agencies" may approach you and offer to perform certain services for a fee. These could well be services you could do for yourself, for free, such as negotiating a new payment plan with your lender, or pursuing a pre-foreclosure sale. If you have any doubt about paying for such services call HUD-approved housing counseling agency (see toll-free

number and the TDD toll-free number on page 1). Do this before you pay anyone or sign anything.

Q: Are there any precautions I can take?

Here are several precautions that should help you avoid being "taken" by scam artist:

1. Don't sign any papers you don't fully understand.
2. Make sure you get all "promises" in writing.
3. Beware of any loan assumption where you are not formally released from liability for your mortgage debt and contracts of sale.
4. Check with a lawyer or your mortgage company before entering into any deal involving your home.
5. If you're selling the house yourself to avoid foreclosure, check to see if there are any complaints against the prospective buyer. You can contact your state's Attorney General, the State Real Estate Commission, or the local District Attorney's Consumer Fraud Unit for this type of information.

Q: What are the main points I should remember?

1. Don't lose your home and damage your credit history if you can help it.
2. Call or write your mortgage lender immediately.
3. Stay in your home to make sure you qualify for assistance.
4. Arrange an appointment with a housing counselor to explore your options. Call 1-800-569-4287 or the toll free TDD number 1-800-877-8339.
5. Cooperate with the counselor or lender trying to help you.
6. Explore every alternative to losing your home.
7. Beware of scams.
8. Do not sign anything you don't understand. And remember that signing over the deed to someone else does not necessarily relieve you of your loan obligation.
9. Act now. Delaying can't help. If you do nothing, YOU WILL LOSE YOUR HOME and your good credit rating.