

January 30, 2017

Via Electronic Mail to Colette.Pollard@hud.gov

Colette Pollard
Reports Management Officer, QDAM
Department of Housing and Urban Development
451 7th Street SW., Room 4176, Washington, DC 20410-5000

RE: Comments to 60-Day Notice of Proposed Information Collection: FHA Single Family
 Model Mortgage Documents, 81 Fed. Reg. 85997
 Agency/Docket Number: Docket No. FR-5913-C-34

Dear Ms. Pollard:

On behalf of the clients, communities, and neighborhoods we represent, the undersigned organizations write in strong support of HUD's decision to restore language to the FHA form mortgage contract that promotes compliance with regulations addressing foreclosure alternatives, thereby saving taxpayer funds.

Ensuring that lenders fully evaluate loss mitigation options benefits taxpayers by preventing unnecessary HUD insurance claim payments on avoidable foreclosures. Neighborhoods, which suffer real economic consequences from foreclosure, and individual homeowners are also helped when non-compliant servicers are stopped from foreclosing on homes. The language that HUD has proposed to restore to the loan contract provides an avenue for preventing unnecessary foreclosures.

In paragraph 22 of the proposed Model Mortgage, HUD has included a sentence stating, "[n]otwithstanding any other provision in this Security Instrument, other than for any default under Section 17, Lender may not initiate foreclosure for a monetary default unless permitted by regulations of the Secretary." We will refer to this language in the comments as the "compliance language." The compliance language incorporates mandatory loss mitigation regulations into the homeowner's contract with the lender.

HUD had included similar language in the form contracts until very recently removing it. In fact, compliance language had been a stable feature of FHA mortgage contracts for around twenty-five years, and the agency had instituted it through the Federal Register. In initially including the language in the form contracts, HUD recognized that lenders already had to follow regulations, but it stated that the regulatory system "represent[s] a major policy of the insurance programs and, therefore, should be incorporated." Requirements for Single Family Mortgage Instruments, 53 Fed. Reg. 25434-01, 25435 (July 6, 1988). HUD defended its decision to include the compliance language after receiving critical comments, and it recognized the language's importance.

HUD removed compliance language from the mortgage documents without explanation and without providing any notice or opportunity to comment. HUD simply posted the revised forms on its website.

The compliance language, which is present in the vast majority of outstanding borrower contracts, has stopped unnecessary claim payments. Courts across the country have relied on this language to stop lenders from foreclosing without following HUD's rules.

Unfortunately, lender non-compliance remains a problem, as indicated in a recent Office of Inspector General report, which makes the compliance language as important as ever. Without this language, HUD will face too many unnecessary claim payments and homeowners will face avoidable foreclosures. The decision to reinstate the compliance language will not add undue costs, and it will ameliorate the issues caused when HUD originally removed the language without notice or opportunity to comment.

We ask you to finalize your proposal for the sake of protecting taxpayer funds and for the sake of FHA's goal of promoting homeownership.

Thank you for the opportunity to submit these comments.

Sincerely,

Americans for Financial Reform
Bronx Legal Services
Brooklyn Legal Services
California Reinvestment Coalition
Center for NYC Neighborhoods
Center for Responsible Lending (CRL)
Community Legal Services of Philadelphia, Inc. (on behalf of its low-income clients)
Consumer Action
Consumer Federation of America
Corporation for Enterprise Development (CFED)
Empire Justice Center
Hispanic Brotherhood, Inc.
Jacksonville Area Legal Aid, Inc.
The Leadership Conference on Civil and Human Rights
Legal Aid Society of Southwest Ohio, LLC
Legal Services NYC
NAACP
National Association of Consumer Advocates
National Community Reinvestment Coalition (NCRC)
National Consumer Law Center (on behalf of its low-income clients)
National Council of La Raza
National Fair Housing Alliance
National Housing Resource Center
National Urban League
New Economy Project
Queens Legal Services
Philadelphia Legal Assistance
Predatory Lending Clinic, Legal Services Center of Harvard Law School
Public Counsel
Public Justice Center
Sargent Shriver National Center on Poverty Law
Staten Island Legal Services