Avoid Foreclosure:
Pre-Foreclosure Sale & Deed In Lieu to the Rescue!

Section 502 Guarantee Loan Program
COST OF FORECLOSURE
Survey of FY 2017 paid claims
• Average loss claim: $50,990
• Average liquidation costs: $6,168
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LOSS MITIGATION OPTION USE

- Loan Modification 49%
- Repayment Agreements 45%
- Pre-Foreclosure Sales (Less than 1%)
- Deed In Lieu (Less than 1%)
COULD FORECLOSURE BE AVOIDED?
EVIDENCE OF HOPE

- Less than 3,000 claims
- Not due to foreclosure
LEVERAGE YOUR OPTIONS!

- Pre-Foreclosure Sale
- Deed in Lieu
Pre-Foreclosure Sales: LESS THAN 1%?
Missed Opportunities?

- Failed repayment plan
- Repair language confusing
Deed In Lieu:
LESS THAN 1%?

- Short Sale falls apart
- Borrower in bankruptcy
- Failed repayment plan
GOALS

- Empower Partners
- Encourage flexibility
- Document appropriately
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AVOIDING FORECLOSURE
NEXT EXIT
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Regulation and Handbook

7 CFR 3555:
3555.305 Voluntary Liquidation

HB-1-3555: Chapter 18
Attachment 18-A: Loss Mitigation Guide
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USDA Regulations and Guidelines
https://www.rd.usda.gov/publications/regulations-guidelines/handbooks#hb13555
APPLIED ASSUMPTIONS

- Waterfalls are exhausted

1. Informal Repayment Agreement
2. Special Forbearance
3. Loan Modification
4. Special Loan Servicing
5. Pre-Foreclosure Sale
6. Deed-In-Lieu

Special Relief Options:
1. Extended term and lower interest rate
2. Extended term, lower interest rate, and Mortgage Recovery Advance (MRA)
3. MRA alone
LEARNING CHECKS:
START YOUR ENGINES!
Question 1: True or False

- Borrower is discharged from Chapter 7 bankruptcy
- Mortgage debt is not reaffirmed

Lender must pursue PFS before a foreclosure may be initiated.
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Question 1: FALSE

Offer a Deed in Lieu (DIL)!

• Borrower is no longer liable for the mortgage debt
• No financial package is required: recent BK
• Save foreclosure/acquisition costs
• Title must be clear
Question 2: True or False

- Borrower is 60 days delinquent
- Property appraised for $100,000
- Required repairs: $10k floor coverings, $10k replace A/C and heating system, and $10k deck replacement = $30k total
- Repairs due to borrower neglect, not eligible for a homeowners insurance claim

Repairs exceed 10% of appraised value. A PFS or DIL is not an eligible option.
Question 2: False

This property is eligible for a PFS or DIL.

- Property is in average to poor condition
- Repairs are not an insurable loss or eligible for reimbursement
- Lender may either 1. Offer PFS without repairs or 2. Offer DIL, complete repairs, market property

Either option = avoiding foreclosure and saving money
Question 3: True or False

- Borrower is 30 days delinquent
- Residence was vacated and rented due to job relocation and upside down equity
- Renters left after two years, borrower is unable to cover the current mortgage

Borrower is eligible for a PFS.
Question 3: True

The borrower is eligible for a PFS.

- Reason to vacate the property and hardship is involuntary
- Capacity to repay is not supported
Question 4: True or False

- Borrower was approved for a PFS
- Reason for default was involuntary
- No capacity to repay the mortgage
- Property has been on the market for 90 days, no offers

Borrower is eligible for a DIL.
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Question 4: True

The borrower is eligible for a DIL.

- Borrower’s capacity to repay is unchanged
- No new financial package is required if there is no change in hardship circumstances
Question 5: True or False

- All borrowers to the mortgage are deceased
- The home is now held by the heirs of the estate
- Mortgage balance is $105,000
- Appraised value is $98,500

Lender must offer a PFS before a DIL could be considered.
Question 5: **False**

The lender may offer the heirs a DIL.

- There is no equity in the home
- Title must be clear
- The DIL reduces the burden on the heirs
- Reduces financial costs to liquidate the property
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Question 6: True or False

• Loan is DQ 30 + days
• Loss of job 2 months ago
• Borrower was renovating the kitchen, fire occurred: Total damage: $45,000
• Appraised value of dwelling: $215,000
• Insurable loss

Lender must proceed to foreclosure due to damage.
Question 6: **False**

The lender may offer the borrower a PFS.

- The damage is an insurable loss
- Lender must work with insurance company to repair
- Market property for 90 days
- If no sale after 90 days, proceed to DIL and continue to market property
Goal: Avoid Foreclosure

- Reduce costs to lender and government
- Avoid lengthy litigation
- Encourage homeowner to leave peacefully, collateral intact
- Reduce personal/emotional loss
- Assist homeowner to maintain better credit: Avoid bankruptcy
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1. Reason
2. Prudence
3. Good judgment
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SOP
1. Standard
2. Operating
3. Procedure

1. Document
2. Document
3. Document!
1. Enter servicing plans upon your approval.
2. Do not wait until the borrower responds.
3. USDA requires documentation of your decision.
4. Failure to report = unauthorized servicing.
Helpful Tips

• Be Empowered!

• Put PFS and DIL options on the table

• Document decisions

• Low cost options are win/win
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Resources: USDA LINC

Resources: GovDelivery

USDA LINC Training & Resource Library

7 CFR 3555 | Electronic Status Reporting | Guaranteed Annual Fee | Guaranteed Underwriting System | Lender Loan Closing | Loss Claim Administration | Loan Origination | Loss Mitigation | Property Disposition | Security

The documents and material contained in the USDA LINC Training and Resource Library use Adobe PDF and Adobe Flash formats. To view PDF files you must have Adobe Acrobat Reader installed on your computer. To view Flash files you must have Adobe Flash Player installed on your computer.

7 CFR 3555

Training

1. Become an Approved Lender (Webcast) 15 minutes
   - Become an Approved Lender: 1 slide per page (Training Handout)
   - Become an Approved Lender: 2 slides per page (Training Handout)
   - Become an Approved Lender: Slide with notes (Training Handout)
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Resources: GovDelivery

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