

April, 2016

MEMBERS OF HEMAP CONSTITUENT GROUPS

PHFA has undertaken a yearlong effort to update and revise the combined Act 6/Act 91 Notice ("Notice") used for the Homeowner's Emergency Mortgage Assistance Program ("HEMAP"). Working closely with the Department of Banking and Securities, we have endeavored to create a simple and direct form of Notice that complies both with Act 91 (35 P.S. §1680.401 *et seq.*) and Act 6 (41 P.S. §401 *et seq.*).

Many interested parties have provided guidance and comments on the proposed form of the Notice as well as proposed revisions to the Policy Statement on HEMAP. PHFA appreciates the continued support and is grateful to those that participated in this project. Obviously, the result of this collaborative process is a balance of many voices and opinions. We are hopeful that the balance attained is fair to all members of the HEMAP community.

The overarching goal of the HEMAP revision project has been to provide a more accessible program. It is in the best interest of everyone in the advocacy, lending and loan servicing community to assist in ensuring access to the HEMAP program and greater participation in counseling assistance.

There are a number of important items I would like to underscore as PHFA administers the new revisions.

- **Implementation Timeline:** The new form of Notice *must* be used no later than the implementation deadline of September 1, 2016, but may be used anytime after publication in the *Pennsylvania Bulletin*.
- **Strict Adherence to Notice Format:** Notices which do not follow the new format will not meet the requirements of the Act. I must stress that no deviations are permitted. Any change in the format may result in a presumption of deficiency under state law and challenges to the validity of the foreclosure action. PHFA will monitor for compliance with this requirement.
- **Courtesy Act 91 Form:** A courtesy sample of the combined Act 91/Act 6 Notice in a downloadable PDF format is available on PHFA's website at www.phfa.org. Please note, however, the PDF technology may limit the amount of data which can be embedded into some of the fields. Lenders are reminded they must fully complete all of the applicable data fields with relevant information regarding the default and delinquency and what steps must be taken to cure the default. If you need additional space beyond the space in the form provided on our website, you must generate the Notice using internal methods. In any event the Notice must remain consistent with the prescribed form of Notice in Appendix A of the Policy Statement.
- **Dating the HEMAP Notice:** Please remember that the date printed on the Act 91 Notice triggers the 30-day automatic stay period (providing a standstill in foreclosure proceedings to allow homeowners to get to a counseling agency and apply for HEMAP). PHFA's presumption is that the date printed on the Notice is contemporaneous with the date of mailing of the Notice; if it is not, a postmark date, if later in time, will override the printed date on the Notice in determining timeliness of face-to-face meetings. We encourage lenders and servicers to provide a few additional days when they date the HEMAP Notice to allow for any inadvertent delays in mailing. It is critical to provide homeowners with as much time as possible to get to counseling and apply for HEMAP. As set forth in the Policy Statement,

lenders and servicers must ensure that the information on the Account Summary is valid for the date printed on the Act 91 Notice and provide all time mandated by law to homeowners.

- **Multiple Language Formats and Accessibility:** PHFA has secured professional translations of the Act 91 Notice in several languages. In addition to the Spanish language translation, the Notice has been translated into Chinese, Russian, Vietnamese and Cambodian. The forms of alternative language Notices are posted on the Agency's website (www.phfa.org). In addition to sending the Act 91 Notice in English and Spanish as prescribed by the amended Policy Statement, lenders are encouraged to send an alternative language Notice when the lender is aware that the customer is likely to communicate in this alternative language. In addition to the translated Notices, PHFA strongly encourages all lenders to provide language translation services to ensure that their customers have access to HEMAP. In addition, lenders are reminded to provide access to information and services as required for persons with disabilities.
- **Maximize Opportunities to Apply:** PHFA urges all lenders and servicers to provide maximum time and opportunity to consumers. When in doubt, please provide notice about HEMAP. This is especially essential for customers who receive loan modifications or enter into forbearance agreements. We have noticed that often when customers default on a modification or forbearance arrangement, they are not aware of their opportunity to apply to HEMAP and lenders may not provide a new Notice. PHFA will accept and consider applications for HEMAP from eligible households in these situations. While the Act may not mandate that additional Notices or time be provided, PHFA urges lenders to implement measures to ensure that customers are aware of all application opportunities that may be available and work with customers to achieve beneficial results. In addition, PHFA will be advising all of our counseling agencies to make information about HEMAP widely available to ensure that consumers know they may apply in the future.
- **Provide Additional Information:** PHFA is designing an important Fact Sheet regarding HEMAP. This Fact Sheet will be provided as part of the financial counseling sessions when customers are directed to counseling agencies to apply to HEMAP. This information, however, may also be helpful *before* an Act 91 Notice is provided and we urge lenders to provide this information in advance of the Act 91 process. The Fact Sheet will be available on the Agency's website as soon as it is ready for release. Please check for it.
- **Counseling Agency list updates:** PHFA intends to annually publish a schedule to advise all parties as to when updates regarding the current counseling agency list will be available on its website. In addition to the published schedule, PHFA may provide additional periodic updates to the website regarding names, addresses and appropriate contact information for approved counseling agencies. At a minimum lenders are expected to update their list in accordance with the published update schedule. Lenders are further encouraged to check periodically to ensure they have the most current information.

Sincerely,



Brian A. Hudson, Sr.
Executive Director and CEO

c: Honorable Robin Wiessmann,
Secretary, PA Department of Banking and Securities