

Homeowners' Emergency Mortgage Assistance Program ("HEMAP")

Reimbursement of Legal Fees and Costs

The Policy Statement on HEMAP defines reasonable attorney's fees as fees for legal services and reasonable and necessary costs related thereto, which are actually incurred by a mortgagee, in commencing or pursuing an action in mortgage foreclosure and which meet the requirements or limitations in this section as established from time to time by the Pennsylvania Housing Finance Agency ("Agency").

The Agency will review and authorize reimbursement of legal fees and costs in accordance with the following upon approval and closing of a HEMAP loan to a qualified homeowner under the provisions of HEMAP authorized under Act 91 of 1983 ("Act 91"), (codified at 35 P.S. Section 1680.4021, *et seq.*):

- The Agency will reimburse lenders based upon a reasonable hourly rate as may be established by the Agency. The hourly rate will be published annually in the *PA Bulletin* and posted on the Agency's website, www.phfa.org. The Agency will average in attorney, and paralegal- or legal assistant- time actually billed to the lender in calculating the hourly rate.
- The Agency will reimburse lenders for reasonable attorney fees or costs only if the lender has provided the Notice required by Act 91 and the legal services were not rendered or costs incurred after the lender has been notified that the applicant has been approved for a mortgage assistance loan by the Agency.
- The Agency will make a determination regarding the reimbursement of a lenders attorney fees only after receipt of a detailed, itemized statement showing services rendered, dates the action was completed and actual hour(s) used to complete the task. Failure to provide any required itemization in the form and manner prescribed herein may result in either the forfeiture or reduction of any attorney fees or costs requested.
- Attorneys' fees and costs will not be allowed, nor be the subject of reimbursement by the Agency, if the services are rendered or the costs incurred prior to or during the 30-day notice period required by section 403 of the Act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 403), known as the Usury Law.
- Attorneys' fees and costs will not be allowed nor be the subject of reimbursement by the Agency, if the services are rendered or the costs incurred during the notice and application periods when the homeowner is protected by a stay against legal action as imposed by sections 402-C and 403-C of Act 91 (35 P. S. § § 1680.402c and 1680.403c). Section 402-C of Act 91 prohibits a mortgagee from entering judgment by confession pursuant to a note accompanying a mortgage and from proceeding to enforce the obligation without giving notice and following the procedures provided in Act 91.
- The Agency will reimburse lenders for reasonable attorney fees or costs incurred in connection with a bankruptcy filed by the homeowner, only if the fees or costs were incurred after the sending of the Notice required by Act 91.
- Prior to the commencement of an action in mortgage foreclosure, the Agency will reimburse lenders attorneys' fees and costs in an amount which may not exceed the sum of \$50.
- When an action in mortgage foreclosure was instituted by the lender, not contested by the homeowner, and proceeded to judgment, the Agency may reimburse the lender for attorney fees in an amount equal to the amount established by the Federal National Mortgage Association ("Fannie Mae") or the Federal Home Loan Mortgage Corporation ("Freddie Mac") for its lenders in this Commonwealth, for a standard, completed, uncontested foreclosure, without requiring an itemization of services rendered.

- The Agency will reimburse lenders for reasonable attorney fees and costs associated with appearing at a conciliation conference. Lenders will be reimbursed in an amount not to exceed \$375 for the first conciliation conference appearance, and \$275 for each subsequent conciliation conference appearance.
- The Agency will reimburse lenders for the cost of an appraisal of the property only if the homeowner was untimely in making application to the agency and the appraisal was procured after judgment was rendered in the foreclosure action.