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NRMLA T&I Task Force
T&I Default White Paper
Proposed Policies For Current T&I Defaults
(Loan Servicing)

Customers are required to pay annual real estate taxes and ensure their dwelling is adequately insured as a condition of obtaining a reverse mortgage. The challenge the industry faces with pursuing foreclosure on a reverse mortgage for unpaid taxes and insurance is that the senior will be displaced from their home. Due to the growing population of tax/insurance default loans, it is necessary to establish definitive resolution strategies. Strategies should include preventative strategies applied to new loan originations that could assist customers to meet their tax/insurance obligations and curative plans for the existing and future default population. Below are recommendations HUD should consider to address the preventative and curative strategies:

Curative Approaches

Issue 1: T&I Default Due and Payable Deferral Process

Current State: HUD considers a borrower non compliant with the terms of their mortgage when taxes and/or insurance are not paid current. A Servicer is required to work with the customer to cure the default within 90 days of the default. HUD allows cure efforts to include placing the customer on a valid repayment plan or repayment of the total corporate advance within the 90 days. Upon expiration of the 90 day cure period, a Servicer may submit to HUD a request for due and payable deferral opposed to requesting due and payable for foreclosure. HUD is either approving the deferral or placing the deferral request into a pending status.

Impact:

- Loans continue to be in a pending/approved deferral process without a resolution.
- HUD has not published guidelines that define the deferral process which causes inconsistent practices within the servicing industry. A criterion is not defined for pending vs. approved deferral and servicers are unsure of what or when next action may be required.
- A current property value is required when submitting a loan for deferral. A property value may be obtained through an AVM or BPO however HUD does not reimburse for AVM/BPO expenses. HUD will reimburse for an appraisal however an appraisal is a very expensive method to obtain a property value. The Servicer/Investor is absorbing the expense for an AVM/BPO today.

Recommendation:

1. HUD continue the deferral process until a resolution of the existing defaults is determined and/or formalized due and payable guidelines are developed and published in a Mortgagee Letter.
2. Allow AVM and/or BPO property values to be claimable expenses in the T& deferral process.
3. HUD to publish guidelines that define the Due and Payable Deferral process

Issue 2: Defined Servicing Guidelines for Tax/Insurance Default Loans

Issue: The HUD regulations should clearly define the responsibilities of a Servicer to cure a T&I default loan and formalize T&I Default Due and Payable criteria.

Impact: The lack of defined collection/cure and due and payable guidelines results in inconsistent servicing practices within the industry.

Recommendation:

1. Define Servicing Best Practices to ensure Servicers have consistent servicing practices:

   - New loan welcome calls and welcome letters used to educate the customer on their responsibility to maintain current taxes/insurance and provide an understanding that not maintaining current tax/insurance constitutes a default.

   - Notify the customer of upcoming tax and insurance payment due dates through reminder notices on monthly/quarterly statements.

   - Collection calls scripts attempts to determine the reason for default, how the customer expended the loan proceeds, advice of alternative sources of funds available to cure the default and available credit counseling sources. Obtain updated alternative contact information.

   - Occupancy letters to include an insert to request updated alternative contact information

2. Defined T&I Collection Process:

   - Default Collection Call Process - letters and outbound call campaigns

   - Cure/Repayment Process - Attempt up to three repayment plans to cure default within 12 months (24 months for customers with existing default advances). Allow 18 to 24 month repayment plans for a customer that demonstrates significant financial hardship. Provide customer with a monthly Repayment Reminder Notice with payment coupon

   - Quarterly Default Process - Subsequent T&I Advance process – quarterly outbound call campaigns and collection letters. Continue outbound collection calls for upcoming tax/insurance due dates

   - D & P Deferral Process - Submit Due and Payable Deferral Request to HUD after the 90-Day Non Compliance period (90 days after the first tax/insurance advance). Loan remains in an approved deferral status until it reaches 98% MCA.

   - Assigned loan to HUD at 98% MCA - Servicer must demonstrate attempts to cure default have been exhausted based on the defined collection process and the use of best practices. Preventative efforts (as addressed in a separate document) have been taken for new originations (see Issue 3 for additional details on assignment).

Issue 3: Option A - HUD Assignment at 98% MCA

Current State: A T&I default loan is not eligible for assignment at 98% MCA.

Impacts: Loans continue to be in a pending/approved deferral process without a resolution. If we are not going to foreclosure on T&I default loans, then assignment should be at 98% MCA as opposed to the investor holding the loan until a maturity event.

Recommendation:

1. Establish an exception process for the existing T&I default loans below 98% MCA (deferral pending and approved) to be assigned to HUD at 98% MCA. Servicer must demonstrate all attempts to cure the default have been exhausted based on the defined collection process and the use of best practices.

2. Establish an exception process for the existing T&I default loans over 100% MCA (deferral pending and approved) to be assigned to HUD and the assignment claim should be paid for the outstanding loan balance amount as opposed to the MCA amount. Servicer must demonstrate all attempts to cure the default have been exhausted based on the defined collection process and the use of best practices.

3. New T&I default loans remain in an approved deferral status until they are eligible for assignment at 98% MCA. Servicer must demonstrate all attempts to cure the default have been exhausted based on the defined collection process and the use of best practices. Preventative efforts have been taken at origination.

Issue 3: Option B – If HUD Assignment at 98% MCA is not Allowed

Recommendation:

1. Defined Tax/Insurance Due and Payable Declaration Process – if HUD assignment is not permissible.

   - T&I Default Due and Payable Declaration criteria should include an analysis of property values, age of the loan, amount of T&I advance and Max Claim Amount (MCA). When a loan meets the following 3 threshold; the loan should be considered for Due and Payable Declaration.

     Due & Payable Declaration Thresholds:
     - Threshold 1: No Valid Repayment Plan (broken promise to pay – 3 times or no acceptance of plan)
     - Threshold 2: Current LTV is greater than 75% based on current property value
     - Threshold 3: Total T&I default (amount advanced) is greater than $5,000

   - HUD approves Due and Payable Declaration. Due and payable declaration process allows for 6 months to cure with option of two 90-day extensions.

   - Due and Payable Declaration will allow the servicer/investor to proceed to foreclosure on the reverse mortgage.

   - Denied Due and Payable Declaration request will qualify the loan to be assigned to HUD.

Issue 4: Refinance Tax/Insurance Default Loans

Current State: Due to the recent increase in the FHA lending limit there may be an opportunity to refinance T&I default loans for customers that benefit from refinancing. HECM loans may be refinanced today and it is optional for the customer to have an escrow set a side for taxes and insurance.

Impact: A refinance strategy for T&I loans may cure some existing defaults. However, this strategy should require establishing guidelines that mandates a portion of the available funds be set a side for future taxes/insurance payments when the customer is unable to make payment.

Recommendation:

1. A portion of the equity (in the new loan) must be set aside in a T&I Reserve to pay future taxes and/or insurance bills, if the customer defaults.

2. The customer must attend counseling and that counseling should pay special attention to the customers' obligation to pay Tax and Insurance on their property in the event of the escrow set aside were to be depleted.

Issue 5: Payment of Debenture Interest per current HUD regulations

Current State: On a foreclosure claim, HUD regulations provide for the payment of debenture interest from the date the loan becomes due and payable until the date the claim is paid by HUD. The instructions provided to servicers by HUD in 2006 for completion of the claim form results in no interest being paid on a claim after foreclosure from the date the loan becomes due and payable until the REO Sale Date or the Appraisal Based Claim date.

Impact: The lender/investor suffers a significant loss of interest - often as much as 18-24 months considering the amount of time the estate is allowed to pay off the loan after due and payable, the amount of time to complete a foreclosure in many states and the time to sell the REO property.

Recommendation:
1. Instructions for completion of claim forms should be modified immediately.
2. Supplemental claims should be paid for those claims since the issue started in 2006.

<u>Issue 6: Modify time frame for debenture interest on HECM claims</u>

Current State: The trigger to start debenture interest vs. note rate is the date the loan becomes due and payable. The program allows up to 12 months (with approved extensions) for the loan to be paid off after D&P. If the property is sold prior to foreclosure for less than the debt, the claim will include note interest to the sale date. If the property is not sold and the loan is foreclosed, the foreclosure claim would require debenture interest back to the D&P date (see issue #1 about the payment of debenture interest).

Impact: If a loan ends up being foreclosed because the estate cannot sell the property, the lender/investor is penalized up to 12 months of debenture interest vs. note interest when the lender cannot proceed with foreclosure to mitigate that time frame.

Recommendation:
1. Modify the trigger to start debenture interest on HECM foreclosure claims

<u>Issue 7 - Appraisal Based Claims</u>

Current State: If a lender/investor is unable to sell a REO property within 6 months, they are required to file a claim under the MIP insurance anyway. The claim is based on a current value of the property but does not consider the lender's ultimate 'cost to sell'. An REO-sale claim is based on net proceeds of the sale after deduction of the 'cost to sell".

Impact: Lender/investor incurs a significant loss on every appraisal based claim

Recommendation:
1. Recommendation A – A lender should be allowed to convey the property to HUD after completion of foreclosure and acquisition of good title just as allowed on the forward FHA program.
2. Recommendation B – If not allowed to convey the property to HUD to Appraisal Based Claim process should be revised to a much more equitable treatment and insurance coverage:
   - Longer to sell before claim required

Ability to file supplemental claim after final sale of the property.