

Bulletin

NUMBER: 2012-27

TO: Freddie Mac Servicers

November 15, 2012

SUBJECTS

With this *Single-Family Seller/Servicer Guide* (“Guide”) Bulletin, we are making the following updates and revisions to our **Servicing** requirements:

- Announcing the Freddie Mac Standard Deed-in-Lieu of Foreclosure (“Standard Deed-in-Lieu of Foreclosure”)
- Increasing the Servicer incentive for completing a deed-in-lieu of foreclosure
- Revising our requirements for foreclosure sale postponement

STANDARD DEED-IN-LIEU OF FORECLOSURE

Effective for new deed-in-lieu of foreclosure evaluations conducted on or after March 1, 2013

The Standard Deed-in-Lieu of Foreclosure is part of the Servicing Alignment Initiative (SAI) developed under the direction of the Federal Housing Finance Agency, and is designed to serve as a workout option for Borrowers for whom neither a home retention alternative to foreclosure nor a Freddie Mac Standard Short Sale (“short sale”) is a workable solution. This Bulletin provides complete requirements for the Standard Deed-in-Lieu of Foreclosure.

The Standard Deed-in-Lieu of Foreclosure provides Servicers delegated authority to approve a deed-in-lieu of foreclosure (DIL) in accordance with the requirements of Guide Chapter B65, *Workout Options*. In addition, it revises the non-delegated DIL workout option in Chapter B65.

Servicers must continue to evaluate Borrowers in accordance with the evaluation hierarchy and offer the Borrower a home retention option or short sale, as appropriate, before offering a DIL. We have updated the evaluation hierarchy in Guide Section 64.6, *Evaluation Hierarchy, Borrower Solicitation and Communication*, to include the provision that Servicers must encourage a short sale prior to pursuing a DIL.

Sections B65.43, *Deed-in-Lieu of Foreclosure Eligibility Requirements and Servicer Approval Authority*, through B65.48, *Closing, Reporting and Remittance Requirements*, have been revised to incorporate the requirements related to the Standard Deed-in-Lieu of Foreclosure, including:

- Borrower, property and Mortgage eligibility
- Approval authority
- Borrower documentation
- Property condition requirements
- Borrower contribution requirements and eligibility requirements for Borrower relocation assistance
- Property inspections
- DIL communication time lines

- Sales transaction and processing requirements
- Closing the DIL and reporting it to Freddie Mac

Requirements related to eligibility, property inspections, Borrower relocation assistance, foreclosure suspension and DIL communication time lines are detailed further below.

In addition, we are providing:

- Revisions to Guide Exhibit 93, *Evaluation Model Clauses*, to include updates to the “Non-HAFA Deed-in-Lieu” evaluation model clause, which has been renamed the “Standard Deed-in-Lieu” evaluation model clause. Updates to the clause include the addition of a provision requiring the Borrower to sign a waiver of ownership of personal property remaining at or in the Mortgaged Premises after execution of the deed
- New Guide Exhibit 100, *Personal Property Release*, to provide Servicers with a template that they may use to meet the requirement that the Borrower waive ownership of personal property left at or in the Mortgaged Premises
- New expense code 500002 (Deed-in-Lieu Subordinate Lien Payment) for requesting reimbursement for payouts to subordinate lien holders. Exhibits 57, *1- to 4-Unit Property Approved Expense Amounts*, and 74, *Expense and Income Codes for Expense Reimbursement Claims*, have been updated to reflect the new expense code.
- Additional details on foreclosure suspension
- Revisions to Sections B65.35 through B65.41 to maintain consistency between Freddie Mac Standard Short Sale and Standard Deed-in-Lieu of Foreclosure requirements

Eligibility

Every Borrower, regardless of Delinquency status, is eligible to be considered for a DIL, provided the following requirements are met:

- The Servicer has complied with the evaluation hierarchy
- The Borrower must be experiencing or have experienced one of the eligible hardships listed in Section 65.17(a)
- The Borrower must be able to convey clear and marketable title to the Mortgaged Premises to Freddie Mac
- If the Mortgage is current or less than 31 days delinquent then the following additional requirements must be met:
 - At least one of the Borrowers must occupy the Mortgaged Premises as his or her Primary Residence and;
 - The Borrower’s current monthly debt payment- to-income ratio must be greater than 55%

Unless otherwise notified by Freddie Mac, all Servicers are delegated to approve a DIL that meets the requirements of Sections B65.43 through B65.48 for the following eligible Borrowers:

- Borrowers who are 90 or more days delinquent
- Borrowers who are current or less than 90 days delinquent provided the Borrower’s eligible hardship is one of the following:
 - Death of a Borrower or death of the primary or secondary wage earner
 - Long-term or permanent disability; serious illness of a Borrower/co-Borrower or dependent family member

Additionally, a Servicer is authorized to approve a DIL for a Borrower who was previously discharged from the debt obligations in a Chapter 7 bankruptcy.

Servicers are not delegated to approve a DIL for a Borrower who is current or less than 90 days delinquent if the Borrower's hardship is other than those listed above or if the Borrower was not discharged from debt obligations in a Chapter 7 bankruptcy. However, if the Servicer believes a DIL is still the most appropriate remedy, then the Servicer must submit a recommendation to Freddie Mac for approval.

Refer to Sections B65.43 through B65.48 for all DIL eligibility requirements.

Borrower relocation assistance

Borrowers who are eligible for a DIL and are not required to make a financial contribution toward the deficiency may be eligible to receive up to \$3,000 in relocation assistance from Freddie Mac provided that the Borrower occupies the Mortgaged Premises as his or her primary residence. In addition, the Servicer may at its discretion use its own funds to offer the Borrower an additional financial incentive to complete the DIL. If the Borrower receives relocation assistance from a source other than Freddie Mac or the Servicer, such as an employer, the Servicer must reduce the amount of Freddie Mac's relocation assistance by the amount received from the other source. Further, if the final property inspection reveals that the property is damaged, contains trash or debris or is otherwise not in clean, broom-swept condition, the Servicer must deduct the estimated or, if known, the actual cost of repairing and cleaning the property from the relocation assistance amount.

Once the final amount of relocation assistance has been determined and the deed has been executed, the Servicer must disburse the relocation assistance to the Borrower within 30 days of receipt of the executed deed. Servicers may request reimbursement for the relocation assistance from Freddie Mac via the Freddie Mac Reimbursement System using expense code 013005 (Deed-in-Lieu Borrower Relocation Assistance). Exhibits 57 and 74 have been updated to reflect the new expense code.

Refer to new Section B65.44.1, *Borrower Contribution and Relocation Assistance*, for additional information.

Final property inspection and Borrower waiver of claim to personal property

We have revised Section B65.47, *Deed-in-Lieu Transaction and Processing Requirements*, to require Servicers to obtain an interior property inspection no more than 48 hours prior to final execution of the deed. This interior property inspection must be obtained to ensure that the property is vacant, undamaged, and left in broom-swept condition with no debris or personal property remaining. If the final property inspection reveals that the property is damaged, contains trash or debris or is otherwise not in clean, broom-swept condition, the Servicer must deduct the estimated or, if known, the actual cost of repairing and cleaning the property from the relocation assistance amount.

Freddie Mac will reimburse Servicers up to \$20 for the actual cost of an interior property inspection completed for a DIL. Servicers may request reimbursement of this expense via the Reimbursement System using expense code 404008 (Deed-in-Lieu Property Inspection). Exhibits 57 and 74 have been updated to reflect this new expense code.

In addition, as part of the DIL settlement process, the Borrower will be required to sign a waiver of ownership of personal property remaining in and on the Mortgaged Premises after execution of the deed. This provision has been incorporated into the "Standard Deed-in-Lieu" model clause, found in Exhibit 93.

Foreclosure suspension and evaluation response

We have revised our foreclosure suspension requirements and execution time frame for DILs to provide that:

- Once the Mortgage has been referred to foreclosure, the Servicer must continue with foreclosure proceedings during the DIL process, except where delay for motion of judgment is provided for Mortgages subject to judicial proceedings
- The Servicer may only suspend the foreclosure sale once the executed deed and all other required DIL documentation have been received

- The Servicer must ensure there is sufficient time to complete processing of the DIL (including sending the DIL offer to the Borrower) so that an executed deed can be received by the Servicer no later than 30 days prior to the foreclosure sale date

Sections 64.6, *Evaluation Hierarchy, Borrower Solicitation and Communication*, and 66.41, *Complete Borrower Response Packages Received After Foreclosure Has Been Initiated*, have been revised to reflect these changes.

DIL communication time lines

We have updated Section B65.46, *Borrower Communication Time Lines* to include the following requirements:

- No later than five calendar days after a decision, but in no event more than 30 calendar days after receipt of a complete Borrower Response Package, the Servicer must send an Evaluation Notice to the Borrower
- The Servicer must allow the Borrower 14 days from the date on the Evaluation Notice to accept the offer to pursue a DIL
- The Servicer must receive all necessary approvals (e.g., title, second lien(s) and MI) and obtain the executed DIL no later than 60 days after Borrower agreement to the DIL
- If the Servicer is unable to facilitate execution of the deed within 60 days of Borrower acceptance due to delays encountered as a result of title issues, secondary liens or other issues, the Servicer must continue working with the Borrower to resolve these issues for up to an additional 30 days, but then must provide weekly status updates to the Borrower. The maximum amount of time that may elapse from the time of the Borrower's acceptance of the deed-in-lieu of foreclosure and the execution of the deed is 90 days.

SERVICER INCENTIVE FOR DEEDS-IN-LIEU OF FORECLOSURE

Effective March 1, 2013

We have increased the Servicer incentive from \$275 to \$1,500 for DILs completed in accordance with Sections B65.43 through B65.48. Freddie Mac will pay the new incentive for each DIL completed as a result of a DIL evaluation conducted on or after March 1, 2013.

Section 65.42, *Compensation Program*, and Exhibit 96, *Servicing Incentives and Compensatory Fees*, have been updated to reflect this change.

FORECLOSURE SALE POSTPONEMENT

Effective immediately

We have revised our foreclosure sale postponement requirements to eliminate the requirement for Servicers to obtain written approval from Freddie Mac to postpone a foreclosure sale for Mortgages that are more than 12 months delinquent. Servicers now have delegated authority to postpone any foreclosure sale if they have determined that doing so will protect Freddie Mac's interests.

Sections 64.12, *Hardest Hit Fund*, 66.32.1, *Foreclosure Sale Postponements*, 66.41, and Exhibit 57A, *Approved Attorney Fees and Title Expenses*, have been updated to reflect this change.

TRAINING

To help Servicers further understand the new Standard Deed-in-Lieu of Foreclosure workout option, we strongly encourage enrollment in our new webinar, *Bulletin 2012-27: Freddie Mac Standard Deed in Lieu of Foreclosure*, at

http://www.freddiemac.com/ontrack/html/LearningCenter/ClassDescription.jsp?crsNum=SAI_FM_SDLF.

Servicers should visit the Learning Center web page at: <http://www.freddiemac.com/learn/service/> for additional Servicing training information and training resources.

REVISIONS TO THE GUIDE

The revisions included in this Bulletin impact the following:

- Chapters 64, 65, B65, 66 and 71
- Exhibits 57, 57A, 74, 77, 93, 96 and 100
- Directory

CONCLUSION

If you have any questions about the changes announced in this Bulletin, please contact your Freddie Mac representative or call (800) FREDDIE and select “Servicing.”

Sincerely,

A handwritten signature in cursive script that reads "Tracy Hagen Mooney".

Tracy Hagen Mooney
Senior Vice President
Single-Family Servicing and REO