

Homeownership Program Bulletin

November 4, 2011

Program Bulletin #2011-27

To: CalHFA Approved Servicers

Enforcement of Borrower Occupancy Policy, Applications for CalHFA Consent to Rent and Foreclosure Moratorium

CalHFA is in the process of reviewing and evaluating its policy concerning borrowers seeking to rent out their homes. During this period of review and evaluation, servicers shall act in accordance with the directions contained in this program bulletin.

A. Foreclosures

1. Servicers shall initiate no new foreclosures based upon borrowers' failure to occupy the property as their personal residence until further direction from CalHFA.
2. For loans currently in foreclosure on the basis of borrowers' non-occupancy, servicers shall direct the Trustee not to issue a Notice of Sale prior to February 1, 2012. The servicer shall not rescind the foreclosure or accept payments until after a decision is made.
3. For loans that have a Trustees' sale date already noticed, servicers shall immediately direct the Trustee to postpone the Trustee Sale to a date in February 2012.

B. Loans Not in Foreclosure

1. If a servicer has already communicated with the borrowers regarding their not occupying the property, but not yet commenced foreclosure, the servicer shall promptly contact the borrowers concerning the previous communication using a letter substantially in the form of "Attachment A" hereto.
2. If the servicer has returned or declined to accept payments, the servicer shall start accepting payments and waive any late fees or other charges relating to the returned or unaccepted payments. Should the borrowers be unable to become current on payments, the servicer should contact CalHFA Portfolio Management for instructions.
3. The servicer shall also remove any negative credit reporting done on this basis, and refrain from any negative credit reporting until further direction from CalHFA Portfolio Management.

C. Requests for CalHFA's Consent to Rent

1. Upon receipt of borrowers' requests for consent to rent their property, or to extend the term of a prior consent, servicer shall:
 - a. Immediately advise CalHFA of the status of the loan, regardless of the apparent merits of the request. Send a copy of the request and any supporting documentation to:

California Housing Finance Agency
Attn: Portfolio Management
P.O Box 4034, MS 320
Sacramento CA 95812-4034
 - b. Immediately communicate with the borrowers to advise them that their request is being considered and to request from the borrowers, if not already provided, the basis for the request, including the claimed hardship, and any supporting documentation necessary to evaluate the request;
 - c. Advise the borrowers that they must continue to make timely payments on the loan while their request is being considered; and,
 - d. Promptly forward to CalHFA Portfolio Management any additional information and documentation provided by the borrowers.
2. When notified by CalHFA Portfolio Management of its decision on the borrowers' request, follow the instructions provided by CalHFA Portfolio Management along with its decision.

D. Borrower Breaches of Owner-Occupancy Requirement

1. Should a servicer learn of borrowers' violation of the owner-occupancy requirement, servicer shall:
 - a. Immediately advise CalHFA Portfolio Management of the status of the loan and send any documentation supporting the determination that the borrowers are not occupying the property;
 - b. Determine and inform CalHFA Portfolio Management of the borrowers' current residence and mailing address (if different);
 - c. Determine and inform CalHFA Portfolio Management whether the property is being rented to third parties, and provide any information and documentation regarding the rental and the terms thereof;
 - d. If the loan is delinquent or in monetary default, or subsequently becomes delinquent or in monetary default, proceed in regard thereto in the usual manner;
 - e. If the loan is current, contact the borrowers concerning their violation of the owner-occupancy requirement using a letter substantially in the form of "Attachment B" hereto;
 - f. Promptly inform CalHFA Portfolio Management of any communications from the borrowers, and provide CalHFA Portfolio Management with any correspondence and documents provided by the borrowers; and,

- g. Should the borrowers request permission to rent, proceed as in “**Requests for CalHFA’s Consent to Rent**,” paragraph C. above.
2. Servicers should take no other action in regard to the borrowers’ failure to occupy the property until directed by CalHFA Portfolio Management.

For questions about this bulletin, contact CalHFA Portfolio Management Unit by phone at 916.326.8000; by email at PortfolioManagement@calhfa.ca.gov or visit CalHFA’s web site www.calhfa.ca.gov for additional information.

Attachments (2)

ATTACHMENT A

Date

Borrower 1
Borrower 2
Street
City, State Zip

Re: Loan Number:
Property Address:

Dear Valued Customer:

You were recently sent a Notice of Election to Accelerate that advised you that you are in breach of your contract for not occupying the property. This letter is being sent to notify you that due to a recent report that was prepared for the California Senate Rules Committee, CalHFA has been asked to reconsider its rental policy. As a result, neither we nor CalHFA will pursue any non-monetary foreclosures for non-owner occupancy during the review, which will be completed by February 2012.

CalHFA cannot guarantee the outcome of the policy review. CalHFA's decision to reconsider its rental policy is in no way meant to be a waiver of any of CalHFA's rights with respect to its interest in the subject property. Our acceptance of payments is not intended to be and should not be construed as a waiver of any breach or default, or of any remedies otherwise available to CalHFA. We will, however, continue to accept your monthly payments until we know the outcome of that policy review. We understand your frustration and are making every attempt to accommodate our borrowers while complying with the law.

Should you have any questions regarding this letter, please contact [Servicer's Name] at [Servicer's phone number] to further discuss this matter.

Sincerely,

ATTACHMENT B

Date

Borrower 1
Borrower 2
Street
City, State Zip

Re: Loan Number:
Property Address:

Dear Valued Customer:

We have recently become aware that you are not occupying the above-referenced property as your primary residence. Until the present time, with very limited exceptions, CalHFA borrowers were required to occupy their CalHFA-financed homes. This letter is being sent to notify you that due to a recent report that was prepared for the California Senate Rules Committee, CalHFA has been asked to reconsider its rental policy. As a result, neither we nor CalHFA will pursue any non-monetary foreclosures for non-owner occupancy during the review, which will be completed by February 2012.

CalHFA cannot guarantee the outcome of the policy review. CalHFA's decision to reconsider its rental policy is in no way meant to be a waiver of any of CalHFA's rights with respect to its interest in the subject property. Our acceptance of payments is not intended to be and should not be construed as a waiver of any breach or default, or of any remedies otherwise available to CalHFA. We will, however, continue to accept your monthly payments until we know the outcome of that policy review. We understand your frustration and are making every attempt to accommodate our borrowers while complying with the law.

Should you have any questions regarding this letter, please contact [Servicer's Name] at [Servicer's phone number] to further discuss this matter.

Sincerely,