



## **SPECIAL FORBEARANCE OPTION**

The Special Forbearance is a written agreement between the Lender and a Borrower that consist of a plan enabling the Borrower to reinstate their loan. Ref: Mortgage Letters 2000-05, 2002-17, 2011-23 and 2011-28.

### **FACTS**

- Borrower must be due and unpaid for three months (61 days delinquent).
- Maximum arrearage due may not exceed 12 months arrearage Principal, Interest, Taxes and Insurance.
- Leads to reinstatement of the loan.
- No maximum duration.
- Must be in writing and state previously missed mortgage payments.
- Provide failure Options.

### **SPECIAL FORBEARANCE TYPE I**

- Special Forbearance installment must be based on the Borrower's ability to pay.
- May allow reasonable foreclosure costs and late fees accrued prior to execution of the Agreement.
- Minimum duration of four months with no maximum length of time to repay the arrearage when required payments are increased.
- Minimum duration of six months with no maximum length to repay the arrearage; when required payments have a combination of suspended, reduced and/or full.
- Allow the Borrower to pre-pay the delinquency at any time.

### **CAUSE OF DEFAULT IS UNEMPLOYMENT**

Effective August 1, 2011, an Unemployment Special Forbearance may be extended to a minimum of 12 months. The minimum 12 month timeframe is "temporary" and will expire as of August 1, 2013.

- Based on Borrower's ability to pay, a partial payment will be required. For example, an amount equal to monthly escrow requirements.
- Borrower agrees to actively seek employment during term of Special Forbearance.
- Borrower immediately notifies Lender when employment status changes.
- During the month in which the Agreement expires, Lender is required to consider the Borrower for extended Forbearance and/or another Loss Mitigation Option.

**TRIAL PAYMENT PLAN** - Mortgagee Letter 2011-28 supersedes Mortgagee Letters 2000-05 and 2002-17 with respect to guidance pertaining to Trial Payment Plans. Successful completion of a Trial Payment Plan as a prerequisite for a Lender executing a permanent standard Modification and/or Partial Claim in the following situations is required:

- Borrower has been delinquent (30 or more days) twice or more in the preceding 12 months;
- Borrower has been delinquent for 90 days or more (three or more consecutive payments past due) in the preceding 36 months;
- Borrower has defaulted within 90 days of a previous Loss Mitigation Retention Option (Special Forbearance, Loan Modification, and Partial Claim) executed in the past 12 months;
- Financial Analysis reflects a Borrower has a net surplus income of less than 20 percent of total net income;
- If less than 14 months have elapsed since the origination of the loan;
- If the amount added to the loan balance in a Loan Modification or the amount of the Partial Claim exceeds 10 percent of the unpaid principal balance;
- Borrower failed a Trial Payment Plan for FHA's Making Home Affordable Program (FHA-HAMP); or
- Lender determines that a Trial Payment Plan is necessary to demonstrate the Borrower's ability to sustain the modified payment.
- Lenders *must* analyze the Borrower's escrow to avoid another payment increase. All or a portion of the arrearage that includes Principal, Interest, Taxes and Insurance may be capitalized and calculated into the outstanding mortgage balance.

## **FAILURE OPTIONS**

### **Special Forbearance**

The following bullets provide the definition of Special Forbearance Option failure. These circumstances must be listed within the written Special Forbearance Agreement/Trial Payment Plan.

- The Borrower abandons the property.
- The Borrower advises the Lender that he/she will not follow through and fulfill the terms of the special forbearance agreement.
- The Borrower allows two installments to become due and unpaid without any advisement to the Lender of any problems that rendered the Borrower unable to stay current under the terms of the forbearance.

### **Trial Payment Plan**

The following bullets provide the definition of Trial Payment Plan failure. These circumstances must be listed within the written Trial Payment Plan.

- The Borrower abandons the property.
- The Borrower does not make the scheduled Trial Plan Payment within 15 days of the Trial Payment Plan due date.

## **INCENTIVE/CLAIMS**

### **Special Forbearance Option**

- Lenders receive \$100 incentive for claims submitted within 60 days of execution date of agreement.
- \$200 incentive if Lender is ranked in Tier 1.
- If the Borrower fails to complete payments under the Special Forbearance Agreement and foreclosure occurs, HUD will pay Note Interest Rate rather than FHA Debenture Rate from the due date of the last completely paid installment to the earliest of the following dates:
  - The date of institution of foreclosure proceedings,
  - The date of acquisition of title and possession by Deed-in-Lieu of Foreclosure,
  - The date the property was acquired by the Commissioner under a direct conveyance from the Borrower,
  - 90 Calendar Days following the date the Borrower fails to meet the requirements of the Special Forbearance Agreement, or
  - Such other date as HUD approves in writing prior to the expiration of the 90 Calendar Day period,
  - The date the Lender sends the Borrower notice of eligibility to participate in the Preforeclosure Sale Program.

### **Trial Payment Plan**

- Within 60 days of the Borrower's successful completion of a Trial Payment Plan and
- Loan Modification documents have been "executed" by the Borrower, Lender can receive up to \$750 or
- Partial Claim documents have been executed by the Borrower, Lender can receive up to \$500.

If you have any question you may contact NSC at:

### **National Servicing Center**

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/sfh/nsc/nschome](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/nschome)

**NSC's Call Center - 1-877-622-8525**

### **Frequently Asked Questions:**

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/sfh/nsc/faqsctc](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/faqsctc)