



State of Rhode Island
Department of Business Regulation



Division of Banking and Securities
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October 29, 2007

TO: All Licensed Lenders and Licensed Loan Brokers (“Licensees”)

RE: Foreclosure Assistance and Workouts

The Rhode Island Department of Business Regulation Division of Banking and Securities (“Division”) encourage Rhode Island State mortgage lenders and servicers to pursue strategies to mitigate losses while preserving homeownership to the extent possible and appropriate. The Division requests that mortgage lenders and servicers work constructively with residential borrowers at risk of default and to consider prudent workout arrangements that avoid unnecessary foreclosures, which are generally in the best interest of both the mortgage lender and the borrower.

The Division developed a parallel *Statement on Subprime Mortgage Lending (Banking Bulletin 2007-5)* that applies to state-supervised mortgage brokers and lenders.

In June 2007, the Conference of Bank Supervisors (“CSBS”) and the American Association of Residential Mortgage Regulators (“AARMR”) issued a consumer alert and an industry letter to address resetting mortgage loans. These previous statements focused on residential loans retained by federally regulated institutions and state-supervised entities. However, many subprime and other mortgage loans have been transferred into securitization trusts. Servicing for these securitized loans is governed by the terms of contract documents, typically referred to as Pooling and Servicing Agreements.

A significant number of adjustable-rate mortgages are scheduled to reset in the coming months. As indicated in the *Statement on Subprime Mortgage Lending* and the October 2006 *Interagency Guidance on Nontraditional Mortgage Product Risks*, these resets may result in a significant payment shock to the borrower, which can increase the likelihood of default. Servicers of securitized mortgages should review the governing documents for the securitization trusts to determine the full extent of their authority to restructure loans that are delinquent or in default or are in imminent risk of default. The governing

documents may allow servicers to proactively contact borrowers at risk of default, assess whether default is reasonably foreseeable, and, if so, apply loss mitigation strategies designed to achieve sustainable mortgage obligations.

The Securities and Exchange Commission (“SEC”) has provided clarification that entering into loan restructurings or modifications when default is reasonably foreseeable does not preclude an institution from continuing to treat serviced mortgages as off-balance sheet exposures. Also, the Division, CSBS and the federal financial agencies understand that the Department of Treasury has indicated that servicers of loans in qualifying securitization vehicles may modify the terms of the loans before an actual delinquency or default when default is reasonably foreseeable, consistent with Real Estate Mortgage Investment Conduit tax rules. Servicers are encouraged to use the authority that they have under the governing securitization documents to take appropriate steps when an increased risk of default is identified, including:

- proactively identifying borrowers at heightened risk of delinquency or default, such as those with impending interest rate resets;
- contacting borrowers to assess their ability to repay;
- assessing whether there is a reasonable basis to conclude that default is “reasonably foreseeable”; and
- exploring, where appropriate, a loss mitigation strategy that avoids foreclosure or other actions that result in a loss of homeownership.

Loss mitigation techniques that preserve homeownership are generally less costly than foreclosure, particularly when applied before default. Prudent loss mitigation strategies may include loan modifications; deferral of payments; extension of loan maturities; conversion of adjustable-rate mortgages into fixed-rate or fully indexed, fully amortizing adjustable-rate mortgages; capitalization of delinquent amounts; or any combination of these. As one example, servicers have been converting hybrid adjustable-rate mortgages into fixed-rate loans. Where appropriate, servicers are encouraged to apply loss mitigation techniques that result in mortgage obligations that the borrower can meet in a sustained manner over the long term. In evaluating loss mitigation techniques, servicers should consider the borrower’s ability to repay the modified obligation to final maturity according to its terms, taking into account the borrower’s total monthly housing-related payments (including principal, interest, taxes, and insurance, commonly referred to as “PITI”) as a percentage of the borrower’s gross monthly income (referred to as the debt-to-income or “DTI” ratio). Attention should also be given to the borrower’s other obligations and resources, as well as additional factors that could affect the borrower’s capacity and propensity to repay. Servicers have indicated that a borrower with a high DTI ratio is more likely to encounter difficulties in meeting mortgage obligations. Some loan modifications or other strategies, such as a reduction or forgiveness of principal, may result in additional tax liabilities for the borrower that should be included in any assessment of the borrower’s ability to meet future obligations. When appropriate, servicers are encouraged to refer borrowers to qualified non-profit and other homeownership counseling services and/or to government programs, such as those

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administered by the Federal Housing Administration, which may be able to work with all parties to avoid unnecessary foreclosures. When considering and implementing loss mitigation strategies, servicers are expected to treat consumers fairly and to adhere to all applicable legal requirements.

I have attached a listing of Counseling Agencies located in this state that may be useful for referrals by your company.

Very truly yours,

Dennis F. Ziroli, CFE
Associate Director &
Superintendent of Banking and Securities

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AGENCY NAME	PHONE FAX EMAIL ADDRESS	ADDRESS	COUNSELING SERVICES
East Bay Community Development Corp.	(401) 253-2080 phone (401) 253-6997 fax	150 Franklin Street Bristol, RI 02809	-Pre-purchase Counseling
Coventry Housing Associates Corp.	(401) 828-4367 phone (401) 823-5211 fax www.coventryhousing.org	14 Manchester Circle Coventry, RI 02816	-Pre-purchase Counseling
Community Housing Corporation	(401) 782-4646 phone (401) 783-6190 fax	25 West Independence Way Kingston, RI 02881	-Mortgage Delinquency and Default Counseling -Pre-purchase Counseling
Church Community Housing Corporation	(401) 846-5114 phone (401) 849-7930 fax	50 Washington Square Newport, RI 02840	-Pre-purchase Counseling
Blackstone Valley Community Action Program	(401) 723-4520 phone (401)723-3325 fax cpaliotho@hotmail.com www.bvcap.org	32 Goff Avenue Pawtucket, RI 02860	-Fair Housing Assistance -Home Improvement and Rehab. Counseling -Homebuyer Education Programs -Loss Mitigation -Mortgage Delinquency and Default Resolution -Post purchase Counseling -Predatory Lending -Pre-purchase Counseling -Renters Assistance

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AGENCY NAME	PHONE FAX EMAIL ADDRESS	ADDRESS	COUNSELING SERVICES
ACORN Housing	(401) 780-0509 phone (888) 409-3557 toll free (401) 780-0548 fax www.acornhousing.org	807 Broad Street Suite 329 Providence, RI 02907	-Home Equity Conversion Mortgage Counsel. -Home Improvement and Rehab. Counseling -Homebuyer Education Programs -Loss Mitigation -Mortgage Delinquency and Default Resolution -Post Purchase Counseling -Predatory Lending -Pre-purchase Counseling
CCCS Southern New England	(401) 468-7000 phone (800) 208-2227 toll free www.creditcounseling.org Daniel.fenton@moneymanagement.org	4 Richmond Square Suite 350 Providence, RI 02906	-Home Equity Conversion Mortgage Counsel. -Homebuyer Education Programs -Marketing and Outreach Initiatives -Money Debt Management -Mortgage Delinquency and Default Resolution -Post purchase Counseling -Pre-purchase Counseling -Renters Assistance
CCCS Southern New England	(401) 468-7000 phone (800) 308-2227 toll free Brian.coyle@moneymanagement.org	4 Richmond Square Suite 350, Providence, RI 02906	-Home Equity Conversion Mortgage Counsel.
Elmwood Foundation	(401) 273-2330 phone (401) 274-3670 fax nmunoz@elmwoodfoundation.org www.elmwoodfoundation.org	693 Broad Street Providence, RI 02907	-Home Equity Conversion Mortgage Counsel -Homebuyer Education Programs -Mortgage Delinquency and Default Resolution -Post purchase Counseling -Predatory Lending -Pre-purchase Counseling

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AGENCY NAME	PHONE FAX EMAIL ADDRESS	ADDRESS	COUNSELING SERVICES
Housing Development	(401) 270-7907 phone (401) 270-7908 fax hdncne@aol.com	481 Charles Street Providence, RI 02904	-Mortgage Delinquency and Default Resolution Corporation of the North -Pre-purchase Counseling
Olneyville Housing Corporation	(401) 351-8719 phone (401) 351-0019 fax ndemunoz@olneyville.org	1 Curtis Street Providence, RI 02909	-Mortgage Delinquency and Default Resolution -Pre-purchase Counseling
Providence Preservation Society Revolving Fund	(401) 272-2760 phone (401) 273-9190 fax ppsrff@msn.com www.ppsrff.org	24 Meeting Street Providence, RI 02903	-Pre-purchase Counseling
Rhode Island Housing	(401) 457-1234 phone (401) 457-1137 fax www.rhodeislandhousing.org	44 Washington Street Providence, RI 02903	-Homebuyer Education Programs -Loss Mitigation -Mortgage Delinquency and Default Resolution -Anti-Predatory Lending -Pre-Purchase Counseling
Smith Hill CDC	(401) 521-0159 phone (401) 521-6348 fax	206 Smith Street Providence, RI 02908	-Mortgage Delinquency and Default Resolution -Pre-purchase Counseling

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AGENCY NAME	PHONE FAX EMAIL ADDRESS	ADDRESS	COUNSELING SERVICES
Stop Wasting Abandoned Property (SWAP)	(401) 272-0526 phone (401) 272-5653 fax nlambert@swapinc.org	439 Pine Street Providence, RI 02907	-Homebuyer Education -Money Debt Management -Mortgage Delinquency and Default Resolution -Post purchase Counseling -Pre-purchase Counseling -Renters Assistance -Services for the Homeless
The Housing Network	(401) 521-1461 phone (401) 521-1478 fax channifan@housingnetworkri.org www.housingnetworkri.org	48 Nashua Street Providence, RI 02904	-Fair Housing Assistance -Home Equity Conversion Mortgage Counsel. -Home Improvement and Rehab. Counseling -Homebuyer Education Programs -Loss Mitigation -Marketing and Outreach Initiatives -Money Debt Management -Mortgage Delinquency and Default Resolution -Post purchase Counseling -Predatory Lending -Pre-purchase Counseling
The Urban League of RI	(401) 351-5000 phone (401) 454-1946 fax www.ulri.org	246 Prairie Avenue Providence, RI 02905	-Fair Housing Assistance -Homebuyer Education Programs -Mortgage Delinquency and Default Resolution -Predatory Lending -Renters Assistance -Services for the Homeless

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AGENCY NAME

PHONE

FAX

EMAIL ADDRESS

ADDRESS

COUNSELING SERVICES

West Elmwood Housing
Development Corporation

(401) 453-3220 phone
(401) 453-3222 fax
kbravo@westelmwood.org

392 Cranston Street
Providence, RI 02907

- Fair Housing Assistance
- Home Improvement and Rehab. Counseling
- Homebuyer Education Programs
- Loss Mitigation
- Marketing and Outreach Initiatives
- Money Debt Management
- Mortgage Delinquency and Default Resolution
- Post-purchase Counseling
- Predatory Lending
- Pre-purchase Counseling

CCCS of Southern
New England

(800) 208-2227 toll free
(800) 308-2227 toll free
(401) 732-0250 fax
www.creditcounseling.org

501 Centerville Road
Warwick, RI 02886

- Home Equity Conversion Mortgage Counsel.
- Homebuyer Education Programs
- Loss Mitigation
- Marketing and Outreach Initiatives
- Money Debt Management
- Mortgage Delinquency and Default Resolution
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- Renters Assistance
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