

**FEDERAL RESERVE BANK
OF NEW YORK**

At - Cir. No. 10350
June 7, 1990

**HOME OWNERSHIP COUNSELING NOTICE REQUIREMENTS
UNDER THE HOUSING AND URBAN DEVELOPMENT ACT**

*To All State Member Banks, and Others Concerned,
in the Second Federal Reserve District:*

The Housing and Urban Development Act of 1968 requires certain creditors to notify delinquent home mortgage borrowers about the availability of home ownership counseling. A lender's failure to provide adequate and timely notice could jeopardize the ability of a lender to foreclose on a delinquent property in a timely manner.

A 1988 amendment to the Act — Section 169 of the Housing and Community Development Act of 1987 (Pub. L. 100-242, 12 U.S.C. Section 1701x) — expanded the class of creditors subject to this requirement, from makers of loans insured by the Department of Housing and Urban Development ("HUD") to the servicers of all home loans, as defined in Section 169, except loans assisted by the Farmers Home Administration under Title V of the Housing Act of 1949. Section 169, which was due to expire on September 30, 1989, has been extended through September 30, 1990.

A home loan as defined in Section 169 includes any loan insured by a mortgage or lien on a one-family house or unit, or a manufactured home and the lot on which it is situated, where the house, unit, or manufactured home is the homeowner's principal residence. Thus, servicers of conventional and "second-mortgage" type loans secured by such property, in addition to servicers of loans insured by HUD or guaranteed by the Department of Veterans Affairs, are subject to the notification requirement of the Act.

In order to clarify creditor responsibilities under Section 169, HUD has published a notice in the *Federal Register* of January 24, 1990 (reprinted on the following pages) that contains general guidance in the form of questions and answers. In this notice, HUD has changed its definition of a one-family dwelling (which previously included a dwelling that could be divided into a maximum of four dwelling units) so as to exclude houses with more than one dwelling unit. Also, HUD has revised its interpretation with respect to the information that the creditor must send the homeowner in the notice of counseling availability.

In addition, enclosed is a list of HUD-approved counseling agencies for your general location.

For more detailed information about these requirements, you may contact:

Department of Housing and Urban Development
Secretary-held Mortgages and Counseling Services Branch
451 7th Street, S.W.
Washington, D.C. 20410
Attn: Curtis D. Myron, Branch Chief
Room 9184
(Tel. No. 202-755-6664)

A complete directory of HUD-approved housing counseling agencies may be obtained upon written request to the above address. Updates of the list of approved counseling agencies for your general location may be obtained by telephone request to HUD.

Questions regarding this matter may be directed to our Compliance Examinations Department (Tel. No. 212-720-5914).

MARGARET E. BRUSH,
Assistant Chief Examiner.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-90-3002; FR-2460-N-01]

Supplement to the Notice to Home Loan Creditors of Responsibilities Under Federal Law

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Supplement to the notice to home loan creditors of responsibilities under Federal law.

SUMMARY: HUD published a Notice on May 15, 1989 in the Federal Register (54 FR 20964) (Notice), which discussed creditors' responsibilities under section 169 of the Housing and Community Development Act of 1987, Public Law 100-242, approved February 5, 1988 (section 169). This office has received many inquiries from creditors regarding various aspects of the Law, and to resolve these questions we are publishing this supplement so that it will be available to all creditors. (Section 169 expired on September 30, 1989, but it has now been extended through September 30, 1990 by Public Law 101-137, approved November 3, 1989.)

There are two changes to the information contained in the previous Notice published in the Federal Register. One change involves the definition of a "one-family dwelling", which the Notice defined to include "a dwelling that may be divided into a maximum of four [4] dwelling units." After reviewing section 169 and its legislative history, it is HUD's view that a one-family dwelling does not include houses with more than one dwelling unit. This is reflected in the answer to Question 8.

The second change involves the information which the creditor must send the homeowner in the notice of counseling availability. The Notice implied that specific information on counseling agencies must be included in the Notice sent to the homeowner. It has now been decided that the creditor may, instead, include in the written Notice of Default a toll-free number which the homeowner may call for specific information. The creditor must ensure that the telephone line is adequately staffed. This revised information is contained in Question 4.

FOR FURTHER INFORMATION CONTACT: Robert E. Falkenstein, Jr., Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20140; telephone (202) 755-6672. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In order to respond to creditor inquiries and to clarify creditor responsibilities under section 169, the Office of Housing has prepared the following questions and answers as a supplement to the Notice previously published. HUD has no explicit statutory role as interpreter of the scope of section 169, and is publishing this document as general guidance only. We note that if a creditor's compliance with section 169 is challenged in court, the ultimate determination of the adequacy of the creditor's notification and the legal consequences of any noncompliance will be made by the Court. We also note that nothing in this information or in section 169 is intended to preclude a creditor from providing any additional assistance to defaulting homeowners that the creditor regards as appropriate.

1. Does the section 169 requirement that creditors notify delinquent homeowners of available counseling apply only if the property secures a mortgage that is federally insured or guaranteed?

No. The section 169 notification requirement applies to all home loans except those assisted by the Farmers Home Administration under title V of the Housing Act of 1949. Thus, both conventional mortgages and loans, and those insured by HUD or guaranteed by the Department of Veterans Affairs, are subject to section 169.

2. How soon do notices have to go out after a homeowner becomes delinquent?

The statute does not prescribe a time at which the notice must be sent to the homeowner. However, since the purpose of the notice is to help the homeowner avert foreclosure, it should be sent soon enough to enable the homeowner to benefit from the counseling. HUD recommends that the notice be included in the creditor's first communication with the homeowner regarding the delinquency.

3. What is the creditor's obligation with respect to a future delinquency?

A notice must be sent to every homeowner every time the homeowner becomes delinquent. If the homeowner

brings the loan current and becomes delinquent again, another notice must be sent.

4. What should be in the notice?

The notice must contain information on any counseling provided by the creditor and either the name, address and telephone number of the HUD-approved counseling agencies near the homeowner or a cost-free telephone number at the creditor's office where the homeowner can obtain this information. If the security instrument is insured or guaranteed by the Department of Veterans Affairs, the homeowner may be provided with the address and telephone number of the Department of Veterans Affairs Regional Office in the state in which the homeowner resides instead of information on the HUD-approved counseling agencies.

It is not necessary that information on a specific counseling agency be included in the notice. It is sufficient to advise the homeowner that counseling assistance is available and that the homeowner should contact the creditor for further information as long as the creditor provides the homeowner with a toll free number and the creditor ensures that the telephone is adequately staffed.

5. Will HUD be issuing a form for the notice?

No, HUD will not be issuing a form for the notice. It is HUD's view that sufficient information has been provided on the Section 169 notice requirement to enable creditors to prepare the notice.

6. Who should receive the notice?

A homeowner occupying a property covered by a delinquent loan who has suffered an involuntary reduction in his or her income or in the income of someone who contributes to the homeowner's income. However, creditors may prefer to send the notice to all delinquent homeowners, rather than attempt to determine the cause of each delinquency.

7. Are notices required for delinquent home equity loans?

Yes. Also for delinquent mortgages, deeds of trust, second liens, and any other loan secured by the mortgagor's principal residence.

However, the notice is not required property sold under a land sales contract, since title remains in the seller until the contract is completed. The purchaser is not a homeowner until the completion of the contract.

8. Is the notice required only for a homeowner of a one-family house?

In addition to a one-family house, section 169 covers a one-family unit in a condominium, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated. The homeowner must occupy the property as his or her principal residence.

A loan which is secured by only a manufactured home (mobile home) unit, exclusive of a lot, is not covered by the statute. However, a loan secured by both the manufactured home and the site is within the definition of residential property as set out in section 169.

Accordingly, the owner of a manufactured home financed by a loan secured by both the home and lot is entitled to a section 169 notice.

9. If the notice is sent and the closet agency is a significant distance from the homeowner's residence, is the creditor required to provide counseling?

The statute does not require any creditor to provide counseling.

10. If a creditor does provide homeownership counseling, should the creditor also notify the delinquent homeowner of the availability of homeownership counseling by HUD-approved counselors or by the Department of Veterans Affairs?

Yes.

11. Do creditors have to be HUD-approved to offer homeownership counseling?

No.

12. Must creditors indicate in the notice if they do not provide homeownership counseling?

No.

13. Who is responsible for sending the section 169 notice—the owner of the security instrument or the servicer?

Section 169 defines the term "creditor" as a person that is servicing a home loan on behalf of itself or another person or entity. Therefore the servicer of a loan, not the owner, is required to provide the notice required by Section 169.

14. Is a bank a creditor under section 169 if it performs specific collection

services for a mortgagee, i.e., receiving the monthly mortgage payments, and issuing a monthly or quarterly statement to the mortgagee?

If the bank merely receives the mortgage payments for another entity and does not contact homeowners to discuss delinquent account, the bank would not be considered a "servicer" and would not be required to send the Section 169 notice.

15. Should the notice be delivered by certified mail?

Section 169 does not require delivery by certified mail. However, the creditor should be in a position to prove the notification if the homeowner alleges noncompliance with section 169.

16. Should the notice list counseling agencies which are located near the secured property or near the homeowner if the creditor's records indicate that these are different locations?

Since the homeowner must occupy the property as his principal residence before it is required that this notice be sent, the notice should list counseling agencies that are located in the vicinity of the secured property.

17. May counseling agencies charge for their services?

Counseling agencies may charge for that portion of the fee which is not covered by grants and other subsidies received by the counseling agency. However, HUD may limit such charges and place other restrictions on counseling agencies wishing to remain HUD-approved. Section 169 does not require the creditor to assume the cost of this counseling.

18. What is homeownership counseling?

Homeownership counseling includes providing information, advice, and assistance to enable delinquent homeowners to become current in their mortgage payments. The counseling is also designated as housing counseling or default counseling, and includes every service and assistance that will help the homeowner to become current.

Budgeting, money management, arranging a forbearance agreement or plan with the bank, lender or servicer, arranging repayment plans for the payment of other debts, financial aid from local government entities, food and

clothing from non-profit organizations, marital and family guidance, all are included in the homeownership counseling package delivered by HUD-approved housing counseling agencies. The intent is to increase the income of the homeowner, reduce expenses and payments on installment debts, and thereby free-up monies for the monthly mortgage payments.

19. When recommending HUD-approved housing counseling agencies to the homeowner, should creditors send the entire state list of HUD-approved housing counseling agencies, or can creditors select one or two agencies on the list near the homeowner?

Creditors should provide the homeowner with a reasonable number of choices. The homeowner needs more than one or two counseling agencies to choose from. However, the creditor does not need to provide a statewide listing if the state is very large and the listing is lengthy. If there are no HUD-approved housing counseling agencies near the delinquent homeowner, the creditor should provide a list of a reasonable number of agencies which are nearest to the homeowner. The delinquent homeowner may wish to visit those agencies even though they are some distances away or may wish, instead, to discuss the problems over the telephone.

20. Did this Law expire September 30, 1989?

Yes. However, section 169 was extended through September 30, 1990 by an Act to extend the expiration date of the Defense Production Act of 1950, Public Law 101-137, which was signed by the President on November 3, 1989.

21. Who can creditors contact at HUD for more detailed homeownership counseling information?

Secretary-Heid & Counseling Services Branch, Department of Housing and Urban Development, 451 Seventh Street SW.—Room 9184, Washington, DC 20410. The telephone is (202) 755-8664. (This is not a toll-free number.)

Dated: January 8, 1990.

Peter Monroe,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.
[FR Doc. 90-1547 Filed 1-23-90; 8:45 am]

BILLING CODE 4210-27-M

New York, Connecticut, and New Jersey
HUD-Approved Counseling Agencies

STATE OF NEW YORK

HUD-APPROVED COUNSELING AGENCIES

SERVICE AREA: Manhattan

L.E.S. Coalition-Housing
Development
187-89 Avenue B
New York, NY 10009
(212) 677-4722

SERVICE AREA: Manhattan

New York Hispanic Housing
Coalition
209 East Third Street
Post Office Box 880
New York, NY 10009
(212) 460-0951

SERVICE AREA: Brooklyn

Brooklyn Neighborhood Improvement
Association
648 Washington Avenue
Brooklyn, NY 11238
(718) 622-6026

Commission on Human Rights
Neighborhood Stabilization
Program
1368 Fulton St. - 3rd Floor
Brooklyn, NY 11216
(718) 230-3600

Renaissance Development Corp.
489 Rockaway Avenue
Brooklyn, NY 11212
(718) 498-7210

Commission on Human Rights
3442 Fulton Street
Brooklyn, NY 11208
(718) 827-7000

SERVICE AREA: The Bronx

South Bronx Action Group, Inc.
384 East 149th Street, Suite 220
Bronx, NY 10455
(212) 993-5869

Office of Neighborhood Stabilization
Program
Commission on Human Rights
4101 White Plains Road
Bronx, NY 10460
(212) 798-3542

SERVICE AREA: Suffolk County

Suffolk Housing Services
550 Smithtown-by-Pass, Room 220
Hauppauge, NY 11787
(516) 724-6920

Bellport, Hagerman, East Patchogue
Alliance
1731 Montauk Highway
Bellport, NY 11713
(516) 286-9236 OR 286-9264

Family Service League of
Suffolk County, Inc.
262-4 Kings Plaza
Middle Country Road
Middle Island, NY 11953
(516) 345-2140

Wyandanch Community Development
Corporation
1527 B. Straight Path
Wyandanch, NY 11798
(516) 643-4786

STATE OF NEW YORK

SERVICE AREA: Queens

Rockaway Development
& Revitalization Corporation
1931 Mott Avenue, Room 316
Far Rockaway, NY 11691
(718) 471-6040

Elmcor Youth and Adult Activities
107-20 Northern Boulevard
Corona, NY 11368
(718) 651-0096

City Commission of Human Rights
Neighborhood Stabilization
Program
89-11 161st Street, Room 210
Jamaica, NY 11432
(718) 657-9333

Baisley Park Neighbors
114-02 Guy Brewer Boulevard
Jamaica, NY 11433
(718) 523-3613

Margret Community Corporation
1920 New Haven Avenue
Far Rockaway, NY 11691
(718) 471-3724

Orange County Rural Development
Advisory Corporation
223 Greenwich Avenue
Goshen, NY 10924
(914) 294-8336

SERVICE AREA: Westchester County

New Rochelle CAP
95 Lincoln Avenue
New Rochelle, NY 10801
(914) 636-3050

Westchester Residential
Opportunities, Inc.
470 Mamaroneck Avenue
White Plains, NY 10605
(914) 428-4507 or 428-0953

Capitol Hill Improvement Corp.
260 Lark Street
Albany, NY 12210
(518) 462-9696

SERVICE AREA: Broome County

Metro-Interfaith Services, Inc.
21 New Street
Binghamton, NY 13903
(607) 772-6766
Pre-rental & Shared-housing
Counseling Services

SERVICE AREA: Cayuga County Area

Cayuga County HomeSite Development
Corporation
60 Clark Street
Auburn, NY 13021
(315) 253-8451

SERVICE AREA: Chenango County

Chenango Housing Improvement
Program, Inc.
99 North Broad Street
Norwich, NY 13815
(607) 334-3867

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STATE OF NEW YORK

SERVICE AREA: Oneida County

Consumer Credit Counseling Services
of New York, Inc.
502 Bleeker Street
Utica, NY 13501
(315) 797-5366
(Branch Office)

Consumer Credit Counseling Services
of Central New York, Inc.
120 East Washington Street
1006 University Building
Syracuse, NY 13202-4093
(315) 474-6026
(Main Office)

SERVICE AREA: Onondaga County

Urban League of Onondaga County,
Inc., 505 E. Fayette Street
Syracuse, NY 13202
(315) 472-6055

SERVICE AREA: Rensselaer County

Troy Neighborhood Council, Inc.
415 River Street, Third Floor
Troy, NY 12180
(518) 272-8155

SERVICE AREA: Schenectady County

Better Neighborhoods, Inc.
975 Albany Street
Schenectady, NY 12307
(518) 372-6469

SERVICE AREA: Sullivan County

Rural Sullivan County Housing
Opportunities, Inc.
375 Broadway, P.O. Box 1497
Monticello, NY 12701
(914) 794-0348

Troy Rehabilitation and Improvement
Program, Incorporated
415 River Street
P.O. Box 1249
Troy, NY 12181
(518) 272-8289

SERVICE AREA: Cattaraugus County

Eastside Neighborhood Organization
for Development, Inc.
602 Exchange National Bank Building
Olean, NY 14760
(716) 372-0602

SERVICE AREA: Chautauqua County

Chautauqua Opportunities, Inc.
204 Lafayette Street
Jamestown, NY 14701
(716) 488-0766

SERVICE AREA: Erie County

Buffalo Urban League
15 East Genessee
Buffalo, NY 14203
(716) 854-7625

Fillmore Leroy Area Residents, Inc.
(FLARE)
307 Leroy Avenue
Buffalo, NY 14214
(716) 838-6740

SERVICE AREA: Erie County

Housing Assistance Center of
Niagara Frontier
1233 Main Street
Buffalo, NY 14209
(716) 881-2200 Main Office

SERVICE AREA: Monroe County

Housing Council in Monroe County
Area, Inc.
242 Andrews Street
Rochester, NY 14604
(716) 546-3700

Monroe County Human Relations
Commission
619 Powers Building
16 West Main Street
Rochester, NY 14614
(716) 454-1050

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STATE OF NEW YORK

REM COUNSELING ONLY

SERVICE AREA: Orleans County

Housing Development Council of
Orleans County
227 West Avenue
Albion, NY 14411
(716) 589-7037

SERVICE AREA: Albany

United Tenants of Albany, Inc.
33 Clinton Avenue
Albany, NY 12207
(518) 436-8997

SERVICE AREA: Rensselaer County

Rensselaer County Community Housing
Resource Board, Inc.
1514 First Street
P.O. Box 255
Rensselaer, NY 12144
(518) 434-1291

SERVICE AREA: Nassau County

Family Service Association of
Nassau County, Inc.
129 Jackson Street
Hempstead, NY 11550
(516) 485-5600
Only offers counseling on
Reverse Equity Mortgage Program

SERVICE AREA: Columbia County

Columbia Preservation Corporation
557 Warren Street
Hudson, NY 12534
(518) 828-0066

Family Service League of Suffolk
County, Inc.
262-4 Kings Plaza, Middle Country
Road
Middle Island, New York 11953
(516) 345-2140

Community Agency for Senior
Citizens, Inc.
56 Bay Street
Staten Island, New York 10301-2
(718) 981-6222

SERVICE AREA: Towns of Shandaker
Olive and Woodst
in Ulster County

SHARP Committee, Inc.
Main Street
P.O. Box 362
Phoenicia, NY 12464
(914) 688-5777

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STATE OF CONNECTICUT

HUD-APPROVED COUNSELING AGENCIES

Northeastern Connecticut Community
Development Corporation
Post Office Box 156, Route 6
Danielson, CT 06329
(203) 774-7020

Urban League of Greater New Haven
1184 Chapel Street
New Haven, CT 06510
(203) 624-4168

Urban League of Greater Hartford,
Inc.
Housing Department
1229 Albany Avenue
Hartford, CT 06112
(203) 527-0147

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STATE OF NEW JERSEY

HUD-APPROVED COUNSELING AGENCIES

SERVICE AREA: City of Bayonne

Bayonne Economic Opportunity
Foundation
555 Kennedy Boulevard
Bayonne, NJ 07002
(201) 437-7222
(Main Office - Non-Counseling)

SERVICE AREA: Middlesex County

Middlesex County Economic
Opportunities Corporation
841 Georges Road, 2nd Floor
North Brunswick, NJ 08902
(201) 846-6600
(Main Office - Non-Counseling)

SERVICE AREA: Satellite

A.I.M.S.
334 Stockton Street, #113
Perth Amboy, NJ 08861
(201) 324-1580

SERVICE AREA: Monmouth County

Check Mate Incorporated
649 Mattison Avenue
Asbury Park, NJ 07712
(201) 774-3100

Monmouth County Board of Social
Services
Burlington & Kozlosik Road
Post Office Box 3000
Freehold, NJ 07728
(201) 431-7987

SERVICE AREA: Morris County

Morris County Fair Housing Council
19 Market Street
Post Office Box 773
Morristown, NJ 07960
(201) 538-2975

SERVICE AREA: Union County

Urban League of Union County
272 North Broad Street
Elizabeth, NJ 07208
(201) 351-7200

SERVICE AREA: Passaic County

Paterson Task Force
153-155 Ellison Street
Paterson, NJ 07505
(201) 279-2333

SERVICE AREA: Bergen County

Urban League of Bergen County
106 West Palisade Avenue
Englewood, NJ 07631
(201) 568-4988

SERVICE AREA: Essex County

Urban League of Essex County
3 Williams Street
Newark, NJ 07102
(201) 624-6660
(Counseling Office)

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STATE OF NEW JERSEY

SERVICE AREA: Essex County

City of East Orange
Housing Consumer Counseling
122 Brighton Avenue
East Orange, NJ 07107
(201) 266-5415 or 266-5444

Urban League of Essex County
744 Broad Street, Suite 307
Newark, NJ 07102
(201) 624-6660
(Main Office - Non-Counseling)

Atlantic Human Resources, Inc.
10 South Tennessee Avenue
Atlantic City, NJ 08401
(609) 348-4131

Jaycee Housing Counseling, Inc.
1840 South Broadway
Camden, NJ 08104
(609) 541-1000

Ocean Community Economic Action
Now, Inc.
40 Washington Street
Toms River, NJ 08753
(201) 244-5333

Trenton Housing Counseling Services
City Hall Annex - 3rd Floor
319 East State Street
Trenton, NJ 08618
(609) 989-3598

City of Atlantic City
Code Enforcement
1301 Bacharach Boulevard
Atlantic City, NJ 08401
(609) 347-5675

Borough of Clayton
Welfare and Counseling Department
125 N. Delsea Drive
Clayton, NJ 08312
(609) 881-2882

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