



Foreclosure Mitigation Counseling Initiative

Legal Aid Counseling Referral Form– Available to anyone using FMCI Legal Agency

Check Here to Expedite Services

If Foreclosure/Sheriff Sale Date is within two weeks of Referral Date

Borrower Name _____ FICO _____
Co-Borrower Name _____ FICO _____
Address _____

FMCI Legal Agency _____
Address _____
Contact Person _____
Telephone _____
Fax# _____

Provide: Case ID _____ Unique ID _____ Reason for Referral? _____ (Checklist Reason #)

Lender/Service Name: _____

Loan # _____ Loan Status at Referral _____ (i.e. 30, 60, 90 days delinquent)

Was the Client Case shared in HCO with Legal Aid Agency? _____ Yes _____ No

Counseling Agency Referral Information:

Name of Agency _____ Agency # _____
Address _____
Contact Person _____
Direct Contact Tel# _____

Date of Referral _____ If in Foreclosure**, Sheriff Sale Date _____ ** For cases in foreclosure, legal assistance will be limited to matters not involving litigation.

Note: The client(s) sign(s) this release; the case is shared with PHFA and Legal Aid Agency; checklist points on the following pages must be verified to determine the reason for referral prior to sending this document to the Legal Aid Agency for counseling.

Additional Comments:

I authorize the counseling agency named above to provide information and paperwork regarding my mortgage situation, including copies of my loan documents, credit report, asset and employment information and other related documentation, as requested by the Legal Aid Agency for them to provide assistance.

Borrower Signature and Date

Co-Borrower Signature and Date

"NeighborWorks America, PHFA and its FMCI Counseling and Legal Aid entities certify that no one will be discriminated against on the basis of their gender, color, religion, national origin, ancestry, creed, pregnancy, marital or parental status, familial status, sexual orientation, or physical, mental, emotional or learning disability and/or special needs."

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Universal Documents: Generally, the following documents will be relevant for all 11 Referral Topics/Reason for Referral.

*Document Checklist

** The Legal Aid Counseling Referral Form and the checklist documents must be sent (preferably electronically, or via Fax) prior to the Legal Aid appointment. Although you may not be able to collect all of these documents, it is recommended that you attempt to gather as much documentation as possible in order to assist with the Legal Aid referral.*

- HUD-1
 - Preliminary
 - Final
- Note
- Mortgage
- Truth in Lending Documents
- Deed
- Notices or Letters from Lender and/or Servicer
- Documentation of Escrow Balance
- Client Income and Expense Statement
- Client Listing of Debts

WHEN SHOULD CLIENT SEEK LEGAL COUNSEL—CHECKLIST

1. Lack of Cooperation from Servicer/Lender

- a. Lender or Servicer is not willing to work with client and legal counsel is needed to negotiate with the Lender or Servicer for an affordable interest rate or repayment plan.
- b. Lender or Servicer is not providing the client and/or agency with requested information in a timely manner and/or reviewing servicer requirements.
- c. Lender or Servicer is not returning the client or agency's telephone calls.
- d. Negotiating with Lender or Servicer requires specialized legal help.
- e. Loss mitigation efforts would benefit from assistance from legal counselor.
- f. Assistance is needed in determining who the “real” party of interest is.

❖ **Documents Needed**—Letters to and from Servicer/Lender.

2. Evidence of Abusive Servicing/Dispute over Amount of Arrears

- a. Excessive fees appear to have been charged.
- b. Foreclosure fees were added to the account before complaint filed (foreclosure fees appear in Act 6/91 Notice).
- c. Client made payments that were not credited properly by the servicer in the loan history.
- d. Advice or assistance to Counselor is appropriate on the RESPA Letter/preparing qualified written request.

❖ **Documents Needed**—RESPA letter and any documentation showing servicing fees and arrears.

3. Assistance with Loan Modification

- a. Provide clarification on short term or long term modification.
- b. Assist with full understanding of any “unclear” or questionable language on the agreement.

❖ **Documentation Needed**—Drafts or proposed loan modification agreement.

4. Pre-foreclosure/Short Sales

- a. Negotiate with the Lender or Servicer to extend forbearance periods or postpone any foreclosure actions until the client is able to get the property listed with a reputable real estate agent, (preferably a member of **The Pennsylvania Association of REALTORS® (PAR)**).
 - b. Communicate with the real estate agent to ensure that the property is being marketed in a timely manner.
 - c. Provide advice on other options when the default appears incurable.
 - d. Assist in addressing real estate issues that may be impeding sale of property, such as other liens or judgments that cloud title.
- ❖ **Documentation Needed**—Agreements or communications with real estate agent trying to sell the property.

5. Executing a Deed-in-Lieu

- a. Review documents and provide advice regarding various issues, including tax implications, waiver of deficiency, forfeiture of escrow balance, etc.
 - b. Explaining the forfeit of any positive Escrow balance.
 - c. Negotiate and assist with lease agreements for homeowner to stay in property subsequent to sale pending agreed upon move out schedule.
- ❖ **Documentation Needed**—Any proposed lease for client to stay in property pending sale.

6. *Assessment of Bankruptcy Options

**While the legal counseling program will not allow for representation in the bankruptcy, a referral would still be appropriate to assess bankruptcy options and to prepare for filing bankruptcy. The legal counselor may then make a referral or handle the case with different funding if bankruptcy is deemed to be an appropriate option for the homeowner.*

- a. A “must” referral if the counseling agency does not complete or handle bankruptcy counseling.
 - b. General analysis and advice about bankruptcy as an option, including explanation of costs associated with bankruptcy filing, judgments, bills and debts that may be renegotiated or removed through the bankruptcy process and property that could be at risk. Generally, is the bankruptcy likely to be the best option for a particular homeowner? Is the household eligible to file bankruptcy?
 - c. Help with any issues with the Trustee or bankruptcy attorneys.
 - d. To explain costs associated with bankruptcy filing and if cost is an issue for the client, to discuss filing Pro Se (define the term "pro se" as someone who represents self in a legal procedure without the aid of an attorney). Also, explaining the bankruptcy laws to the client as they pertain to someone filing under this category.
- ❖ **Documentation Needed**—Credit Report.

7. All possible Predatory Issues & Truth in Lending Act Issues

- a. Audit the mortgage documents to determine if mortgagor may have been a victim of a predatory loan or if the loan might be rescinded under the Truth in Lending Act;
- b. Refer for TILA analysis if the loan was not used to make the initial purchase and if the loan is less than 3 years old;
- c. Help determine if homeowner is a victim of a foreclosure rescue or bankruptcy scam;
- d. Assist with Nullifying Rescue Scams.
- e. Review the HUD-1 and other mortgage financing documents;
- f. Prepare rescission letters under TILA and HOEPA;
- g. Prepare cancellation letters under the UDAP;
- h. Prepare qualified written requests for RESPA;
- i. Review applicability and protections afforded through laws and regulations governing fraud, Fair Housing and fair lending, banking and mortgage related entities.

❖ **Documentation Needed**—No additional documents.

8. Individual Legal advice or counseling regardless of the FMCI Level as it relates to the foreclosure process prior to the filing of a civil complaint in foreclosure by the lender

- a. Assist the client with responding to a Lender's Demand Letter (Act 6 Letter) "Intention to Foreclose Notice".
- b. Interpret Loan and/or any other Legal Documents.
- c. Review Case Files.
- d. Provide advice on Foreclosure Rights and options and provide overview of what the process entails.

❖ **Documentation Needed**—Lender's demand letter and any documents accompanying demand letter.

9. Estate Issues

- a. Assist in providing appropriate clarification of documents and legal title issues if the occupant's name is not on the note, the mortgage or the deed.
- b. Help the remaining occupant to understand their rights.
- c. Assist occupant in expediting processing of intestate succession issues or formal estate filings to clarify title and ownership as appropriate.
- d. Prepare powers of attorney, if necessary to facilitate authorization for transfer and legal representatives.

❖ **Documentation Needed**—Letters, notices, or other communications from Executor or Administrator of Estate and Will of any decedent relevant to current ownership.

10. Miscellaneous Assistance & Advice (Other than Litigation or Preparing for Litigation)

- a. Assist housing counselor to consider all options, including various refinancing programs listed in item 11.
 - b. In Pennsylvania (a Judicial Foreclosure State), provide assistance prior to a Foreclosure Filing.
 - c. Mediation procedures that are Non-Court related (as long as it is NOT court ordered).
 - d. Assist in reviewing and preparing assumptions and satisfactions of Mortgages—any amendments to the loan structure (i.e. Assignment of Mortgage, assist in resolving tangled Titles).
 - e. Assist with other credit issues and creditor actions affecting the homeowner that may directly impede resolution of the mortgage delinquency.
 - f. Assist and provide advice regarding identity fraud cases.
 - g. Provide advice to resolve issues affecting absent members of the household.
 - h. Other.
- ❖ **Documentation Needed**—Refinancing letters or notices (letters/notices proposing terms) and any documents evidencing identity fraud.

11. HEMAP (Homeowners' Emergency Mortgage Assistance Program) and other Homeowner Assistance Programs

- a. Assistance with the HEMAP application process.
 - b. Assistance with programs such as:
 - ✓ HOPE for Homeowners
 - ✓ HERO
 - ✓ Individualized Assistance for Local Mortgage assistance and rescue Programs
 - ✓ Reverse mortgage program
 - c. Rescue financing/Refinance and Purchase Funding Programs.
 - ✓ Homeowner options for Homeowners with interest rates over 11% percent.
 - d. Higher Interest Rate.
- ❖ **Documentation Needed**—Notices regarding eligibility for HOPE, HERO HEMAP, or other assistance programs and copy of clients application for the program.