



2011 Bulletin 21 Freddie Mac to Modify Short Sale Affidavit

November 22, 2011

Reminding us all of the importance of our membership in BOTH ALTA and FLTA, our friends at ALTA successfully negotiated major improvements to the Freddie Mac short sale affidavit requirements. In a recent bulletin, Freddie Mac announced the following modifications to its procedures regarding short sales:

- Providing that short sale negotiation fees must not be deducted from the proceeds of the sale or charged to the Borrower
- Clarifying that all amounts paid to any party in connection with the short payoff transaction, including payments made to holders of other liens on the Mortgaged Premises, must be accurately reflected on the HUD-1 Settlement Statement and the amount and recipient of the payments must be clearly identified. [Not reflecting such payments on the HUD-1 would likely also be a criminal violation].
- Allowing a Borrower to receive a payment upon the sale of the Mortgaged Premises only if the payment is offered by the Servicer, approved by Freddie Mac, and reflected on the HUD-1 Settlement Statement.
- Revising our short sale affidavit requirements to clarify that statements made in the affidavit are made to the best of each signatory's knowledge and belief and that each signatory is liable for his or her negligent or intentional misrepresentations, but not those of other signatories to the affidavit.

While these changes are technically not binding on servicers for short payoffs until January 1, 2012, loan servicers are "encouraged" to incorporate these changes immediately. That official "encouragement" should strengthen your position to negotiate out unacceptable terms in short sale affidavits already in the pipeline.

If you need someplace more official, refer your short payoff lenders to Sections B65.37, Eligibility Requirements, and B65.40, Approval Conditions, of the Freddie Mac Servicers' Guide, which have been updated to reflect these changes.

Here is a copy of the [ALTA Release](#) on the subject and the original [Freddie Mac bulletin](#).

Are You Getting the Most out of your FLTA Membership?

FLTA has Members Only Links to extensive search and exam resources on its website at [http://www.flta.org/Exam Resources](http://www.flta.org/Exam_Resources). These include links to information from each of [Florida's 67 Counties](#).

Just one of the many benefits of being a Proud FLTA Member!